Q. Can you tell us generally speaking how the figures in column 2, your investment figures, compare with the Interstate Commerce Commission's evaluation?

A. No, sir, I cannot. I made no such comparison.

Q. You are not familiar with those?

A. No.

Q. The figures in column 1 do not purport to show any segregation between interstate and intrastate operations, do they, Mr. Seigler? Column two, schedule 1.

A. Oh, no. No.

Q. That is your overall investment?

[fol. 325] A. That's right.

Q. Now, on column 8 of schedule 1, which is the amount of net railway operating income you show five million, one hundred twenty-six thousand, seven hundred and fifty-four dollars for the year 1948 for the Coast Line. Can you break that down for us between passenger and freight service?

A. Yes, sir, the net railway operating income from freight was $14,789,515 and from passenger operation there was a deficit of $8,662,761. The amount shown on schedule one, column eight for the year 1948 is the difference between the two figures I just mentioned.

Q. Mr. Seigler, do you know Mr. Anderson, who is Assistant Comptroller of the Coast Line?

A. Quite well.

Q. Is he still one of the assistant comptrollers?

A. That's right.

Q. Are you familiar with his testimony before the Florida Commission in Docket 1677 given on March 31 on the application of the Coast Line to withdraw local passenger trains 39 and 40?

A. No, sir, I have never seen it.

Q. Well, in that testimony he made this statement and I want to find out if you agree with him. I got it from his testimony on page 256 of the Florida record: "It was only during the war period of the years 1942 through 1945 that [fol. 326] there was any money earned on passenger operations, but it can be readily seen that when you support a loss of $9,662,000 and you have to assume that out of a freight earning of $14,789,000 that your passenger loss is absorbing to a large extent considerably in excess of fifty

per cent of what you earn on freight. There are limitations to which a freight revenue can absorb passenger losses." Do you agree with that statement?

A. Well, I don't know that I clearly understand what Mr. Anderson had in mind when he said there was a limitation to which passenger losses can be absorbed with freight.

Q. How large a passenger deficit do you think freight can afford to carry?

A. I don't have any opinion in that regard. It is just what the operation is going to produce.

Q. Now, then, comparing your schedules 1 and 2, can you give us some reason why the showing made by the Atlantic Coast Line is so much worse than the showing made by the Seaboard Air Lines?

A. Well, for one thing, the Atlantic Coast Line is handling just about the same level of traffic that the Seaboard is, but it has a double track line to keep up between Jacksonville and Richmond where the Seaboard has a single track. That is a very large contributing factor. I think the Coast Line,—I am not sure, some of our operating people can tell you—has more expensive branch line operation, possibly, [fol. 327] than the Seaboard has.

Q. You both serve about the same territory?

A. We serve about the same territory, but your net financial result is bound to be where you maintain twice the mileage of tracks, it is bound to be less. We are a double track and the Seaboard is a single track line. It makes a big difference.

Q. How much double track line lies outside of the State of Florida?

A. In miles I can't tell you. I don't know.

Q. Transportation conditions generally are about the same in the territory served by the two lines?

A. I wouldn't undertake to say that. The transportation witness will have to tell you that.

Q. Now, on Schedule No. 8 in item 3, what is the percentage of the total freight revenue allocated to Florida?

A. Well, I can't answer that in terms of percentage. I merely took the revenue for those two years. I don't know what the percentage of it is.

Q. All right, how did you find the operating expenses in item 5 on the same schedule?

A. Well, I think I said in my direct testimony that expenses were allocated to the State of Florida on the basis of revenues.

Q. Mr. Seigler, you testified on direct examination: "In [fol. 328] other words, the same percentage of operating expenses was allocated to Florida as the percentage of total freight revenue allocated to Florida"?

A. That's right.

Q. Now, I want to know what is the percentage of the total freight revenue allocated to Florida?

A. I just told you I haven't got that in percentage, but that is the method in which the figure as shown in schedule 8 was arrived at.

Q. Let me ask this: Does item 3 refer to freight revenue or total revenues?

A. It refers to total of all operating revenues including freight, passenger, mail and express and other revenues.

Q. Didn't you testify that you,—that a certain percentage of total freight revenue was allocated to Florida?

A. But we were talking about freight revenues.

Q. You were talking about this same item?

A. Your revenue for passenger operation is allocated for Florida on exactly the same basis as the freight revenue.

Q. Was your testimony that item 3 covers all operating revenues?

A. Right.

Q. And item 5 covers all operating expenses?

A. That's right.

Q. On schedule 15, if the Coast Line had not had the bene- [fol. 329] fit of increases in Florida intrastate freight rates in the two Florida dockets which correspond to Interstate Commerce Commission dockets 162 and 166, what would have been the operating results shown on this schedule with reference to net railway operating income?

A. Now, let me be sure that I understand your question correctly. The schedule itself shows what the net railway operating income would have been had there been no increases on the entire system, either by the Interstate Commerce Commission or the several state commissions. Now, you are asking me what that figure would be if it were confined

only to such increases as we got in the State of Florida under these?

Q. That's right.

A. I haven't got that figure worked out separately. It is in my working paper somewhere. I got the total figures.

Q. Stated another way, that question would be: What was the revenue derived in those increases. That is what it would amount to. You don't have that answer?

A. No, I don't have that separately. This schedule is a showing for the system.

Q. Do you have the figures which would give us the effect on schedule 15 if the Coast Line had received the full increases on Florida intrastate operations that were granted on interstate operations?

[fol. 330] A. No, I didn't prepare any such figures as that.

Q. No schedule 22 did you use the same basis in allocating revenue to Florida there that you testified about a few moments ago?

A. Yes, that is, all the revenue shown as intrastate was on the traffic moved entirely in the state. That is shown as interstate. So the mileage prorate is on the basis of miles actually hauled in Florida and other states.

Q. By the way, Mr. Seigler, how do you allocate the revenue derived from so-called Florida arbitraries interstate and intrastate?

A. The freight revenue on the Coast Line is allocated on the total.

Q. On the total?

A. On the total, including the arbitraries.

Q. Can you tell us what percentage of the freight operating expenses is allocated to Florida and is incurred in Florida intrastate operations?

A. No, nobody can tell you that. That is impossible.

Mr. Petteway: That's all.

By Mr. Pettijohn:

Q. Mr. Seigler, on schedule 1, according to the reply you made to Mr. Petteway you showed the total cash and materials and supplies, a mileage of $32 million plus. What

is the purpose of including cash and materials and supplies in your rate base?

[fol. 331] A. You've got to have cash and material and supplies to operate on.

Q. Under what theory is it allowed? It is working capital, isn't it?

A. Yes, it is.

Q. Your total operating expenses, including depreciation, is shown to be only slightly over 118 million dollars. That shows you have included in the rate base 27 per cent of that for operating capital.

A. I'd say the figures speak for themselves. They come from the book.

Q. It would be an average of almost three months' operating expense for which you are asking working capital.

A. I say the figures speak for themselves.

Q. Do you know how much the Interstate Commerce Commission allowed for working capital as related to docket 166?

A. No, sir.

Q. You don't know it was less than ten percent?

A. I don't know. I wasn't in on docket 166. I wasn't in on that.

Q. Where did you get the amount of depreciation in arriving at investment less depreciation?

A. From the balance of depreciation reserve account on the general books. You will also find it in the railroad's annual report to the Interstate Commerce Commission.

[fol. 332] Q. Do you know that your annual report does not balance?

A. Oh, yes.

Q. Wait a minute. Taking your annual report——

A. I know what you are thinking, Mr. Pettijohn. Your depreciation and amortization on the Coast Line December 1, 1948, as shown in the annual report balance sheet to the Interstate Commerce Commission is $89,354,493.

Q. That's right.

A. The Balance and depreciation on lease property on account 779 is $5,516. That makes a total of $89,360,009, from which there is subtracted a debit balance in the depreciation reserve in the books of Tampa Southern and Fort Myers Southern because those properties are included in

schedules 2, 11-N and are part of the investment on which this rate of return is figured. Now, taking that off of the figures that I gave you, you come to $89,143,861, as shown on the schedule. That is the reconcilation of it.

Q. Then you have to have the books of Tampa Southern and the balance of them in order to arrive at your investment account less depreciation?

A. That's right. It is necessary because that property is used in the service of transportation but it is not owned.

Q. Now, under your net operating income for the year 1947, where you show $3,049,642, does that note $1,030,000 due to change in accounting for foreign line tickets?

[fol. 333] A. It was either in '48 or '47 that the Coast Line changed its methods of accounting for passenger revenues and it was in either one of those years that there was 13 months' revenue instead of 12 and it was something a little over a million dollars. If you adjusted that out of 1947, of course, your net railway operating income would be a million dollars less.

Q. And your increase in 1948 would be considerably more than shown?

A. No, we wouldn't allocate it to '48. When you change your practice, Mr. Pettijohn, so as to get accounting for passengers on one, you have to have 13 months in the year you changed. In '48 we've got 12 months. That is just what it belongs to be. If I understand your question correctly, if you wanted to kick that million dollars out of '47, you certainly wouldn't add it to '48.

Q. I didn't say that, but if you kicked it out of 1947, which you did not do in the case before the Florida Railroad Commission, you would show instead of increase from three million to five million dollars, you'd show from two million to five million?

A. The difference between this thing and the case you refer to is because it is consolidated and involved with several other railroads. That adjustment wasn't set out separately. Also you will find in the same case some adjust-

[fol. 334] ment for excess profit carry back. These are the figures as audited on the books.

Q. They do not show the effect of the increases applicable in 1948 as far as comparison with increases in 1947?

A. Are you still ta-king about the million dollar passenger item?

Q. That's right.

A. I suppose that is right for comparative purposes, yes.

Q. You know, on schedule No. 3, do you, that in 1947 the net railway operating income of the Florida East Coast includes $1,400,000 federal income tax carry back?

A. Is that schedule No. 3?

Q. Schedule 3.

A. 1947?

Q. Yes, sir.

A. $1,450,000, that is correct.

Q. Now, to clear up a question Mr. Petteway asked you. You first, do you, separate your expenses between freight service and passenger on the Atlantic Coast Line and then apportion to Florida its revenue on the same basis as the system revenue?

A. Yes, sir.

Q. And you do the same with the passenger?

A. Yes.

Q. There is no relationship between expens[illegible]s apportioned and actual expenses which are incurred by the rail-
[fol. 335] road in Florida?

A. There will be some difference. However, that is,—how far that is off from it, I actually don't think anybody could say. That is merely the railroad's method of allocating expenses.

Q. Now, in apportioning your interstate revenue to the State of Florida, you apportion it on the percentage that the mileage transported in Florida bears to the mileage, transported on the shipment over the Coast Line Railroad, do you not?

A. That is right.

Q. You do not follow the Interstate Commerce Commission instructions in Southern Class Rate Case 100, ICC 513, in which the Commission stated that the arbitrary should be credited to the State of Florida, do you?

A. We do not.

Q. Have you any idea as to how much that arbitrary would amount to?

A. No, sir, I don't know.

Q. Would you say it would amount to as much on the Coast Line as on the Seaboard?

A. I wouldn't say.

Q. It hasn't been credited to the Florida operation? The interstate Florida revenues in Florida is understated as reflected on your exhibit?

A. As I testified, the prorate was made on the prorate [fol. 336] including the Florida arbitrary. There may be some part of it, some small part of it——

Q. What do you call a small part?

A. Stated in terms of percentage, I'd say a very small part of the total.

Q. What percentage would say of the freight traffic, handled to and from Peninsula Florida was represented by the arbitrary?

A. I wouldn't say. Our traffic man will have to tell you. I don't know what the arbitrary on that is. It is out of my field.

Q. You still say it is a small amount?

A. I don't know. I would think so because the arbitrary is certainly not anything like say fifty percent of the freight revenue, as I understand it. I am talking about rates and I don't know anything about it.

Q. On page 22 you show that the intrastate percentage of total freight revenue, you assign to Florida, has descended from 24.29 in 1926 to 28.09 percent in 1948. To what do you attribute that decline in relationship?

A. I think that is a proper question for our traffic witness to answer. That is related to actual movement of business. He knows more about that than I do.

Q. Unfortunately, he is not a witness and won't put this exhibit in.

[fol. 337] A. I am merely taking figures from books of account and making an exhibit out of it. As to what produced those figures on the book in the first place, the traffic man can tell you better than I can.

Q. On Schedule No. 30 you show the separation of your revenues, expenses and so forth between freight service and passenger service, do you not?

A. That's right.

Q. Your freight expenses and passenger expenses are

separated under the formula prescribed by the Interstate Commerce Commission, are they not?

A. That is correct.

Q. And then they are apportioned as I previously asked you?

A. They are, yes.

Q. The carriers have never, have they, since the Interstate Commerce Commission prescribed the accounting separation, asked for rehearing of that before the Commission for an amendment to those methods?

A. I couldn't answer that question.

Q. I asked to your knowledge?

A. Not so far as I know.

Q. Do not the railroads in their case before the Interstate Commerce Commission in the mail pay case before the ICC at the present time ask that a full portion of the passenger expenses are reflected on their accounts be apportioned to [fol. 338] railway mail service on a basis of car foot mile basis?

A. You are getting me in a case I don't know.

Q. You don't keep up with those?

A. No.

Q. Well, you in this proceeding, are you not, showing how much of the passenger losses must be absorbed by the freight revenue?

A. That is what schedule 30 shows, yes.

Q. Didn't you say in your testimony that the losses had to be absorbed by the freight revenue?

A. I don't know if I used the term "had to be", but the fact is they are.

Q. They are?

A. There is no other place to absorb them.

Q. Now, if there is no other place to absorb them, you have made no provision or no estimate in these compilations of yours to show how much the passenger revenue would be increased if the railroads received the increase in railway pay they're asking for, have you?

A. You mean mail pay?

Q. That's right.

A. No, I haven't made any figures like that.

Q. But you have pointed out with respect to your exhibit,

that you haven't made, but there will be an increase in your operating expenses for the change to the five-day week basis?

[fol. 339] A. I mentioned that merely in passing. I had no figures on it.

Mr. Pettijohn: I believe that is all. Thank you.

By Mr. Hillyer:

Q. Mr. Seigler, on your schedule 1 there is quite an increase in your total investment account between 1945 and 1946. About roughly $26 million. Was that the time of acquisition of AW&C Railroad?

A. The AW&C was acquired, yes, but if you will notice from the heading of the schedule 1, Mr. Hillyer, those investment figures include the AW&C, all the way from '26 right straight through.

Q. Do you know what that sudden drop,—excuse me, I mean jump, what that sudden jump was attributable to?

A. Not for certain, but I think it was attributable to purchase of new equipment, mostly Deisel locomotives.

Q. Now, turn to schedule 8.

A. Eight?

Q. Yes. I listened attentively to what you said, but I still don't understand where you get the figures here of the Florida revenue in account No. 1, freight interstate, Florida. Will you tell me just where you get that figure from? From what reports?

A. That figure is arrived at on the basis of each interstate waybill separ*eatly*. It involves almost hundreds of thousands of separate calcusations. In other words, the revenue [fol. 340] on every waybill on which freight moves interstate from Florida to some other state or vice-versa, that revenue is prorated separately for each individual waybill on a mileage basis. When you add them all up, that is what you've got.

Q. Now, when you prorate on a mileage basis, you don't take into consideration then what amount may be in that for Florida arbitrary up to the Jacksonville line?

A. No, we take the total revenue and prorate on a mileage basis.

Q. If you have a shipment, say from West Florida to Jacksonville for export, for example, that would have two terminal expenses in it?

A. You mean operating expenses?

Q. I mean to cover terminal operation, how would you apportion that?

A. That is intrastate one hundred percent to the State of Florida.

Q. If it is destined by water beyond?

A. It is still Florida intrastate revenue. All the revenue is allocated to Florida intrastate business.

Q. If you use mileage prorate, how do you distinguish between traffic that has two terminal movements in Florida and other interstate traffic which has only one?

A. It wouldn't make any difference if you had ten terminal movements, if your whole movement is in Florida, it is intrastate in Florida.

[fol. 341] Q. I thought you said interstate if it moved by water.

A. You misunderstood. If the rail movement is all in Florida, so far as this schedule is concerned, that is Florida intrastate, not interstate, revenue.

Q. Is the heading wrong?

A. No, Item 1 is interstate *nad* revenue from such a movement as you have just described from Tampa to Jacksonville for export wouldn't be in there at all because that is intrastate. This is interstate.

Q. Then by interstate you don't have reference to the rate which was applicable at all, do you?

A. I don't think I quite understand that question.

Q. Well, if it moved from West Florida to Jacksonville for export it would not be included in this item 1?

A. That's right.

Q. Even though it was an interstate rate?

A. Yes.

Q. And you make no distinction as to whether the two terminals would occur in Florida or one?

A. We make the allocation one hundred percent Florida intrastate if the whole movement is in Florida regardless of how many terminals it is handled through.

Q. But interstate, you do not?

A. On interstate, the Florida proportion of interstate revenue is prorated out on the revenu from every single [fol. 342] waybill, as I have previously explained and the Florida proportion is added up. That is what you got on schedule 8.

Q. Now, on item 2, just how do you arrive at those increases allowed by the Commission? Do they show on the waybill and are they taken from the waybill?

A. Oh, no. As I testified on direct, the amount of the increase as shown in item 2 was calculated on the basis of percentage increases furnished to me by the traffic department.

Q. And figure is not taken from the waybill?

A. No, sir.

Q. I know you have explained, but I still don't understand how you arrive at Florida operating revenues in item 3. Was that taken from the waybill direct?

A. That item 3, freight revenue, passenger revenue, mail, express and all operating revenues,—they are all assigned to Florida on basis of mileage prorate.

Q. Was the freight portion taken actually from the waybills?

A. Yes, and on passenger revenue, that is calculated for every passenger, whether it is a ticket issued by the Coast Line or New York Central or any other line.

Q. As I understand it, you are taking the position that the item 5 is a mere theoretical *clac*ulation in which you do not concur as an accountant.

A. I didn't say that. I said that item 5, total Florida [fol. 343] operating expenses, was arrived at on the same basis, percentage basis, as the revenues were allocated. I wouldn't say that that is unsound.

Q. I understood that you made your testimony that it was a theoretical basis?

A. It is the basis that the Atlantic Coast Line Railroad uses to ascertain Florida operating expenses, which is required to be reported to the Florida Commission. As a matter of fact, I don't thing any two railroads use exactly the same formula to get at it.

Q. Have you ever made any study yourself of the cost of transportation in Florida?

A. Not specifically as such, no.

Q. Have you ever made any study of any particular commodity movements in Florida to determine the cost?

A. You mean a cost study with respect to certain commodities?

Q. Yes.

A. Well, we have at times made them.

Q. Have you made any?

A. Yes, I have.

Q. Have you make any of lumber in Florida? For example, intrastate in Florida compared with Georgia intrastate?

A. No, sir.

Q. Have you made any cost study as to other commodities of that kind? Pulp wood?

[fol. 344] A. Yes, sir, I made a cost study on pulp wood.

Q. Of Georgia compared with Florida?

A. No, I made the cost study to determine exactly what the cost in relation to revenue on pulp wood handled intrastate in Florida only was.

Q. You have not done that in other states?

A. No,—I made one for North Carolina, yes.

Mr. Gwathmey: I might say both of those studys were made for the purpose of supporting a suit in court in which we are alleging those pulpwood rates are confiscatory.

By Mr. Hillyer:

Q. Do you remember how they compared, the North Carolina cost with pulp wood in Florida cost?

A. Not exactly. I think that the Florida cost is—I am pretty sure the Florida cost per one thousand gross ton miles per car, the final results were worked on per car,—that the cost in Florida was a little higher.

Q. Do you know how the average haul in North Carolina compares with Florida average haul?

A. No, I couldn't tell that without reference to the North Carolina papers.

Q. In item No. 6, where you show Florida operating ratio, that figure includes passenger and freight?

A. Yes.

Q. And based on figures that appear on this schedule 8?

A. That's right.

[fol. 345] Q. Is it not a fact that if the passenger deficits were excluded and if this ratio were computed on freight alone, that the Florida freight operating ratio would be considerably lower than that which you show?

A. I think that answer is already set out back here in the schedule where we separate the operating ratios between freight and passenger.

Q. Schedule 30?

A. Yes, sir.

Q. That is for the system and not Florida?

A. That's right.

Q. Is there any way from these figures we could compute the freight operating ratio in Florida as compared with the system freight operating ratio in 1948, for example?

A. It could be computed, yes.

Q. Have you done that, or do you know whether Florida is higher or lower?

A. I think on the basis that we allocate revenues and expenses—let me see here—It could be computed from the figures in the annual report to the State of Florida; in that report it is not separated from freight to passenger, but it can be easily computed on page 760.

By Mr. Pettijohn:

Q. Mr. Seigler, isn't it a fact that the percentages would be exactly the same on freight and passenger in Florida as for the system, but due to difference in the amount of freight [fol. 346] expenses and passenger, as to Florida, the total would vary?

A. The total would vary because in some of your operating revenues they are allocated one hundred percent to the State of Florida, such things as rents from station privileges. They all go into net operating income and they may vary widely between states, but it wouldn't follow your operating for Florida would be the same as for the balance of the system.

By Mr. Hillyer:

Q. On schedule 31 you show that freight operating ratio, 1948, as 68, is that correct?

A. That is correct.

Q. Now, would not you consider that a very excellent showing for any ratio?

A. I'd say an overall ratio of 68 would be fine, but that is freight only.

Q. Do you know of any year in which the Seaboard's freight operating ratio has been any more than 77, with the exception of the year 1945?

A. Well, the answer to that is right on Schedule 31.

Q. I meant going back even farther in the history. Do you recall any prior to 1926?

A. I don't know. I didn't look at them prior to 1926. Anything I could tell you on that would be a pure guess. I don't know.

Q. The year 1945 showed a high peak. Was that the year [fol. 347] of the reorganization of the company?

A. No, I think the reorganization was August 1, 1946, is when the reorganization occurred.

Q. Were you allowed to write off a good deal of amortization in that year?

Mr. Gwathmey: Mr. Chairman, our next witness will be an accounting officer of the Seaboard. I would suggest the questions Mr. Hillyer is asking now might be appropriate for him.

Mr. Hillyer: I took the Seaboard because I thought he said he was from Seaboard.

Mr. Gwathmey: No, Coast Line, but he compiled this consolidated statement.

By Mr. Hillyer:

Q. Now, the Coast Line Schedule 30, you observe there is no year with the exception of 1945 when the Coast Line hasn't had an operating ratio way below a hundred; is that correct?

A. That is correct when it is confined to the freight operating schedule,—ratio.

Q. Now, is this conclusion proper from that showing that the freight service since 1936 has been yielding more than the expense of the freight service?

A. Yes.

Q. Now, have you any reason to doubt that the freight

traffic has been paying any less—any different ratio than [fol. 348] is shown here for the system?

A. Well, I couldn't tell you that without working it out on the basis of a straight freight operating ratio for the State of Florida. I think that the freight operating ratio for the State of Florida alone would be considerably higher than these ratios for the system as a whole.

Q. Would you contend in the year 1948 your Florida freight revenues were less than your Florida freight expenses?

A. In 1948?

Q. Yes.

A. I think you've got that in the annual report to the State of Florida. Your freight revenue in the State of Florida for the year 1948 were more than the direct freight operating expenses were.

Q. In your series of schedules, have you shown any where the separation between freight and passenger expenses for the Florida East Coast?

A. No, that showing was confined to the Seaboard and Coast Line only.

Q. Could you furnish that and would you be willing to furnish that?

Mr. Gwathmey: What is that?

Mr. Hillyer: He has shown no separation between the freight and passenger for the Florida East Coast similar to the Coast Line on Schedule 30 and the Seaboard on Schedule 31.

[fol. 349] Mr. Gwathmey: We will be glad to furnish the figures for you if you want them. Do you understand what he wants?

A. He wants a statement exactly similar to 30 but made on the Florida East Coast.

Mr. Hillyer: Yes.

Comm. Patterson: When will that be furnished?

Mr. Gwathmey: I imagine it can be done in ten days, can't it, Mr. Seigler?

The Witness: Yes, when I get back to headquarters. We have the Florida East Coast annual report on file with the Coast Line. I can work that up in two or three days.

Comm. Patterson: And furnish it for the record within 15 days, is that satisfactory?

The Witness: Yes, sir, I would say so.

Mr. Hillyer: That's all.

Comm. Patterson: Anything further?

Mr. Wells: Yes, sir.

By Mr. Wells:

Q. Mr. Seigler, please refer to schedule 17 of your exhibit 1. Does the notation "Def." for deficit opposite net operating income which follows the figure 1,855,052 refer to that figure or to the 988,869?

A. It refers to the 988 thousand.

Q. So that there was no deficit under either column one or two as per books of accounting?

[fol. 350] A. Let me be sure about that. I would like to took at the original of it. That is correct. It applies to the 988,868.

Q. Now with reference to your schedule 8——

Exam. Mattingly: Let's get that straight there. Is something to be struck out?

A. No.

Mr. Wells: Mr. Examiner, the word is apparently showed under the second column and it is just a typographical misprint because apparently it does refer to the figure following instead of to the one preceding it.

Exam. Mattingly: The one after 988 thousand refers to 2 million, five hundred thousand?

A. That's right. It is just misplaced. A bad stenographic job.

By Mr. Wells:

Q. With reference to schedule 8, I understand that you took the percentage that the Florida freight revenue bore to the system as a whole and applied that percentage to get the Florida portion of the freight expenses?

A. That's right.

Q. And you took a separate percentage for the passenger revenue and passenger expenses for a particular year?

A. That's right.

Q. Were those same percentages used in '47 and '48 or were there different percentages for each year?

A. Each year stands on its own.

[fol. 351] Q. So that you really have in those two columns four different percentages? That is, for freight, for passenger in each of the two years?

A. I am not sure I clearly understand the question. You say four columns on schedule 8.

Q. It doesn't show there, but you used four percentages in arriving at the item five. One for freight and one passenger for '47 and the other for freight and passenger in 1948.

A. I understand you. That is correct.

Q. On schedule 15 you indicate that per books of account, the operating revenue from express reduced to approximately ten percent 1948 under 1947?

A. Yes.

Q. Do you know of any fact, other than increase in express rates that may have accounted for that reduction?

A. No, I don't.

Q. Similarly on Schedule 24 you show that in the first four months of 1949 the operating revenue from express reduced 36 and one-half percent under a similar period in 1948. Do you know of any fact other than the increase in express rated to account for that reduction?

A. No, excepting possibly despite increase of rates there is a falling off of volume of freight rate. Falling off of both items.

[fol. 352] Mr. Wells: That's all.

Comm. Patterson: Any further examination of this witness? You are excused.

Mr. Gwathmey: I have one or two more on redirect examination.

Comm. Patterson: Proceed.

Redirect examination.

By Mr. Gwathmey:

Q. Mr. Seigler, you were asked some questions as to the net railway operating income of the Atlantic Coast Line

in recent years as compared with that of the Seaboard Air Line. You recall those questions, do you not?

A. Yes, sir.

Q. In connection with its rather expensive program of improvement and rehabilitation of its facilities during recent years, has not the Atlantic Coast Line made rather large charges to maintenance?

A. Yes.

Q. And that would be reflected, would it not, in the net railway operating income of the Coast Line?

A. That is quite true.

Q. Now, in reference to methods of apportioning operating expenses to the State of Florida: You have been asked quite a number of questions upon that subject. Are the railroads in Florida required by the Florida Railroad Commission to make some sort of apportionment of that sort [fol. 353] and report it to the Florida Commission?

A. Oh, yes. They require us to report income earned.

Q. Speaking of total Florida operating expenses, you have shown on your exhibit, for example, schedule No. 12, that whole service, total Florida operating expenses, you were asked the question as to how you arrived at your Florida operating expenses. I will ask you now if the Florida Railroad Commission doesn't require you to make a report of that sort for each of the railroads in Florida?

A. Yes, they require us to report the Florida operating expenses.

Q. That is right. That is what I am asking you. And have they devised a formula or given you instructions for any formula to make any such apportionment?

A. No, sir.

Q. Is the apportionment you have made and used on the exhibits the same as that you use to report this to the Florida Commission?

A. That's right.

Q. Has the Florida Railroad Commission called upon the Florida railroads in connection with this proceeding to make a segregation of operating expenses as between interstate and intrastate traffic?

A. No, sir, they have not.

Q. Do you happen to know whether or not during the [fol. 354] early stages of the carriers' efforts to secure

162 increases from the Florida Commission that Commission at first refused the carriers' petition because it was said they had not made such a separation?

A. That is my understanding.

Q. Do you recall that the carriers thereupon filed a petition for rehearing, do you remember that?

A. I remember that.

Q. Do you happen to know that a conference was held in St. Pete between the members of the Florida Commission and the railroads, my good friend Mr. Pettijohn over there, and the railroads invited the Florida Commission to give them a formula by which they could make this separation and Mr. Pettijohn suggested a formula, and Mr. Ormond, your superior officer, at next meeting put this formula in, exactly like Mr. Pettijohn suggested?

Mr. Pettijohn: Do you know that?

A. Yes.

By Mr. Pettijohn:

Q. I dispute the fact. I never did tell them, give them any formula or anything else. I told them if they didn't want to make a separation, I asked them why they didn't take Dr. Edward's formula and use that.

Mr. Gwathmey: We did it at your suggestion and it wasn't worth two cents.

Mr. Pettijohn: But I didn't give you any formula. I want [fol. 355] that on the record straight.

Wait a minute. I would like to ask another question.

Recross examination.

By Mr. Pettijohn:

Q. You said the Florida Railroad Commission had never suggested a basis of apportioning expenses to the state. Are you sure your statement is correct?

A. Well, I will change that to say that so far as I know, they haven't.

Q. You are not saying that they didn't take the railroads in the southeast and suggest a method and that your Mr. McKay, at that time Comptroller, said if we would

make some revisions, he would suggest to his superior officers that they employ it.

A. As to that, I don't know. Possibly I ought to point out I am a comparitively newcomer with the Coast Line Railroad. I haven't been with them but a very few months. There is a whole lot about it that I don't know yet.

Mr. Pettijohn: That is all.

Comm. Patterson: If there is nothing further of this witness, you are excused.

(Witness excused.)

Comm. Patterson: We will take a ten minute recess.

(Recess had.)

Comm. Patterson: Proceed, gentlemen.

Mr. Gwathmey: In the course of Mr. Seigler's testimony [fol. 356] particularly in connection with his exhibit No. 1, he has referred to statistical data which was supplied to him by representatives of some of these other roads, such as L & N and Frisco and which he has used in order to have a consolidated exhibit. Now the accounting representatives of these roads are present and if counsel for the opposition want ask them any questions, they are available. If they are willing to accept the statements as presented to Mr. Seigler and don't want to cross examine these other accountants, I would like to release them and let them go home.

Mr. Pettijohn: As far as the State of Florida and the Florida Railroad Commission, we don't care to cross examine them because if we find anything that varies with the report, we will ask them to brief it.

Mr. Gwathemy: I understand then these other accountants from these other firms can be excused?

Mr. Ribe: I would like to ask one question, but of you. I noticed those figures were put in. I suppose you limited yourself to class one railroads in Florida, or how did you pick your list of railroads?

Mr. Gwathmey: We have shown separately figures for the Frisco and L & N and G S & F.

Mr. Ribe: Does that complete all of that type of statement you intend to put in there? Will there be any show-

ing made for the other railroads in Florida, the short lines, [fol. 357] Apalachacola Northern and M & B, L O P & G, any of those railroads, do you know?

Mr. Gwathmey: Not so far as I am concerned.

GENE L. PARSONS was sworn and testified as follows:

Direct examination.

By Mr. Gwathmey:

Q. Please state your name?

A. Gene L. Parsons.

Q. Mr. Parsons, you are connected with the Seaboard Air Lines Railroad Company, are you not, sir?

A. Yes, sir.

Q. Did you give the reporter your name?

A. Yes, sir.

Q. What is it?

A. G. L. Parsons, Supervisor of Conditions and Betterment Seaboard Air Lines Railroad, Portsmouth, Virginia.

Q. You have been connected with the Accounting Department of the Seaboard for a number of years, have you not?

A. 30 years.

Q. Have you prepared a statement of one page which you desire to offer in this record as an exhibit?

A. I have.

Q. Was this prepared under your direction and personal supervision and is it true and correct to the best of your knowledge?

[fol. 358] A. It was and it is.

Mr. Gwathmey: May we have marked for identification, Mr. Commissioner?

Comm. Patterson: No. 4.

(Respondent's Exhibit No. 4, Witness Parsons, marked for identification.)

By Mr. Gwathmey:

Q. This exhibit deals with the freight service, transportation expenses on the lines of the Seaboard in Florida as compared with the balance of the system, is that right?

A. It deals with the lines of the Seaboard known as the North and South Florida divisions in Florida, which are practically wholly within Florida.

Q. And do the North and South Divisions of the Seaboard in Florida embrace substantially all of the mileage of the Seaboard in the state?

A. Yes, sir, practically one hundred percent.

Q. Now will you first explain how it is practicable for the Seaboard to make this separate showing as to expenses, on the North and South Florida Divisions as compared with the other portions of the system?

A. Yes, sir, the Seaboard has six operating divisions and it keeps its operating accounts by operating divisions expenses, which are incurred on a particular division. That is, the operating expenses are audited in the accounts of that particular division.

[fol. 359] Q. Will you now look at your exhibit and explain rather fully just what it shows?

A. The caption of this exhibit reads, "Comparison of Freight Service Transportation expenses on North and South Florida Divisions with system and system exclusive of North and South Florida Divisions' Transportation Expenses, year 1948" if you will refer to this exhibit it will be noted by item 1 that the mileage embraced on these two divisions is 56.07 percent of the mileage for the balance of the system. Revenue ton miles produced on these two divisions, item 8, were equivalent to 37.5.

Q. Does that figure indicate the relative density or value of traffic on the lines of the Seaboard in freight as compared with other portions of the system?

A. That is correct.

Q. Go ahead.

A. Freight transportation per 1000 revenue ton miles, item 9, was 139.85 per cent of similar expenses for the balance of expenses. Crew wages per loaded car mile, item 19, were 140.87 per cent of the cost of the balance of the system and the total transportation expenses per loaded

car mile for the system were 153.92 per cent of freight; traffic density measured by revenue ton miles per mile of road, item 21, on these two divisions was only 66.52 per cent of that for the balance of the system. That's all I have.

[fol. 360] Q. In view of what you have said, what conclusion do you draw from this exhibit with respect to conducting transportation in the State of Florida on the Seaboard, as compared with other portions of the Seaboard system?

A. That is undoubtedly that the expense of conducting transportation in Florida is considerably higher than it is on the balance of our system.

Q. Are you able to say that the conditions under which the Atlantic Coast Line, under which they operate in Florida, are substantially the same as those of the Seaboard?

A. They are practically the same.

Q. Both roads serve the same general territory, do they not?

A. Correct.

Q. Both roads have substantial branch line mileage in the state?

A. Correct.

Q. And their operations, generally speaking, are pretty closely alike?

A. Correct.

Q. So that while the Atlantic Coast Line does not keep its accounts in such a way as to enable it to make a showing of this kind, have you any reason to doubt that if such a showing were made, the results would be very similar as those of the Seaboard, as shown on Exhibit No. 4?

A. If they were able to make this same statement, I am [fol. 361] satisfied the outcome would be about like Seaboard's.

Q. Is there anything further you want to say about this exhibit?

A. No, sir.

Mr. Gwathmey: We offer Exhibit No. 4 in evidence.

Comm. Patterson: There being no objection, it will be received for the record.

(Respondent's Exhibit No. 4, Witness Parsons, received in evidence.)

Cross-examination.

By Mr. Petteway:

Q. Mr. Parsons, on your exhibit you show the miles of road operated north and south Florida divisions, 1,491.82. This morning Mr. Broetzman testified miles of road operated as 1500.6. How do you account for that difference?

A. This is North and South Florida. This doesn't purport to represent all of Seaboard's road, but these two divisions are practically altogether in Florida.

Q. What other territory in Florida do you have operations in? How expensive is your operation in other territory in Florida?

A. We operate south from Jacksonville down to Miami, to Homestead. West of Jacksonville to Chattahoochee River to Tampa and St. Petersburg.

Q. Is a part of these operations in the state outside of these divisions?

A. Yes.

[fol. 362] Mr. Gwathmey: I am not sure Mr. Parsons fully understood the question. What you want to know is the mileage of track in Florida not included in North and South Florida Divisions?

Mr. Petteway: That's right. Apparently it is the difference between those.

A. Approximately 70 miles.

By Mr. Petteway:

Q. Are you familiar with Seaboard year book for 1948?

A. Yes, sir.

Q. The report of the company to the stockholders and security holders?

A. Yes, sir.

Q. I wish you would explain to me the difference in some figures. On table 6 of the Seaboard's year book for 1948 that I just referred to, under yard conductors and brakemen for the year 1948 it is shown the figure of $2,858,262.13.

In your corresponding item in account 378 you show a figure of $2,559,594. What is the explanation for that difference?

A. Well, where it is practical, all of the transportation expenses which arise on a division are audited in that division. Yet there are some system charges. I believe on this particular item perhaps we had accruals to the general office accounts representing payroll increases to certain employees which haven't been made at the time but those items [fol. 363] were allocated back to the North and South Florida Divisions on an appropriate mileage basis.

Q. Now, table 6 shows total transportation expense of 59 million, whereas your item 7 shows total transportation expense of 37 million. Would that difference be accounted for by the same explanation?

A. No, it wouldn't and I don't know off hand.

Q. How would you account for it?

A. I don't know off hand just what that difference is made of.

Q. That is a substantial difference, isn't it?

A. Yes.

Q. 13 million?

A. It is a substantial difference. I don't know what that is.

Mr. Petteway: Mr. Commissioner, we'd like to know what that difference is. We would like to have an explanation for it if we could. He could furnish it later.

Mr. Gwathmey: He is referring to a docket not in evidence. I will say this: If it is agreeable to Mr. Petteway, he will investigate the matter and explain to him exactly what he wants to know. Is that satisfactory?

Mr. Petteway: Mr. Commissioner, I would like to know. I have in my hand here—I don't know what it is worth, but it is an official Seaboard report to the stockholders for [fol. 364] 1948 and appended to these reports is a certificate from an accountant firm of Haskins and Steele, in which they say: "In our opinion the accompanying statement of earnings presents a fair picture of the financial condition of the Company December 31, 1948, and the results of its operations for the year ended that day in conformity with

accounting requirements prescribed by the Interstate Commerce Commission."

The Witness: I am sorry I can clear that up.

By Mr. Petteway:

Q. All right.

A. That statement purports to show only freight service expenses of the Seaboard system. I mean exhibit No. 4 purports to show only the freight service transportation expenses. The $37,250,000 to which you refer is the exact amount shown in the annual report to the Interstate Commerce Commission under total freight expense.

Q. All right, thank you. Do I understand that your figures in column one, the first column of figures on exhibit No. 4 on North and South Florida Divisions are arrived at independent of your figures in the next column? There is not percentage relationship?

A. No, sir, they represent actual expenses incurred on North and South Florida Divisions as audited in accounts of that division with the exceptions they are some minor differences in charges of north and south.

Q. Do you recall Mr. Seigler's testimony this morning in [fol. 365] which he said that it had never been found possible to segregate the operating expenses between interstate and intrastate?

A. Yes, sir.

Q. Do you see any inconsistency in that statement or this exhibit or does this exhibit purport to cover interstate and intrastate?

A. Both.

Q. Both? Differentiation of interstate and intrastate?

A. No, sir, this represents the total transportation expense. Both.

Mr. Petteway: That's all.

By Mr. Gwathmey:

Q. These are actual figures?

A. Actual figures.

By Mr. Pettijohn:

Q. Does this include everything south of Jacksonville River Junction line and including that portion of the Bainbridge line from Tallahassee to the border?

A. This 1491 miles shown on my exhibit includes everything embraced in North and South Florida Divisions. The South Florida Division is wholly in Florida. The North Florida Division extends a little way into Georgia, from the Florida-Georgia line up to Bainbridge. That is about 12 or 13 miles. It also includes, I believe, other than that,—there is no mileage outside of Florida encompassed in this Division.

[fol. 366] Q. It doesn't include the mileage going to Fernandina?

A. No, the mileage going to Fernandina is on the Carolina Division.

Q. Did you on behalf of the Seaboard Air Line Railroad make an investigation to determine what percentage of the revenues from and to Peninsula Florida were due on the arbitrary?

A. Mr. Pettijohn, it was done quite a few years ago. I didn't participate in it.

Q. Do you know what the percentage was that they found?

A. Approximately eight percent.

Mr. Pettijohn: That's all, thank you.

By Mr. Hillyer:

Q. Mr. Parsons, on your exhibit 4, item 20, expenses per loaded car mile, there is a difference between North Florida and South Florida Divisions and the system. Let me ask you this: Is it not true that in Florida you have some very heavy tonnage intrastate which the Seaboard performs the origin and terminal delivery services, pickup and delivery services, where you have two terminals, is that correct?

A. Are you talking about heavy tonnage? Are you referring to the phosphate movement?

Q. Phosphate, yes.

A. Yes, that is true.

Q. Isn't it a fact that you have two terminal expenses in [fol. 367] that tremendous tonnage of phosphate rock?

A. That is correct.

Q. Regardless of the rates, as I understand it. It is no reflection of rate? Merely expense?

A. That's right.

Q. Is it not true that that traffic moves for relatively short haul, much shorter than your average system haul?

A. I think that is true.

Q. Isn't it true the loading of that traffic is very heavy?

A. You mean car loading?

Q. Yes.

A. That is true.

Q. Isn't it true that car mile revenue for that traffic is way above your average?

A. No, I don't know that. I don't know what the revenue is on that traffic.

Q. Isn't it a fact that Seaboard has a very heavy traffic moving from Florida to states beyond the Seaboard line where the Seaboard has an origin expense in Florida, but has no terminal delivery expense at destination, merely delivering the traffic to the other line, such as Richmond, Virginia?

A. Yes, but pretty much all of the traffic which we move out of Florida, whereas we only have origin expense, it has to be concentrated to several other yards in Florida before it gets to Richmond for example, we move down to Wild- [fol. 368] wood and later from Wildwood to Baldwin and it has to be reclassified in both yards.

Q. I am speaking of terminal expenses, delivery.

A. That is true.

Q. Isn't it a fact that from the central territory, for example, a lot of traffic comes to Florida way as far as Miami where it has a delivery by the Seaboard. The Seaboard has a delivery terminal expense, but no origin terminal expense.

A. That is correct.

Q. Wouldn't those factors account for a difference in the average transportation expenses per loaded car mile?

A. No, I don't know how you mean. How would they account for the difference?

Q. As compared with your short haul, interloading tremendous tonnage of phosphate and on a long haul you partly bridge traffic on the other.

A. Well, these figures more or less speak for themselves. These are actual statistics which we obtained on these two divisions and actual expenses obtained on these two divisions and they are considerably higher than the balance of the system.

Q. Do you have much coal traffic to and from Florida?

A. Very little, not so much.

Q. Do you have some on your lines in other states?

A. Yes, we have. It is not our largest traffic, of course, we do have some, though.

[fol. 369] Q. In your opinion, would not the consist of the traffic have quite a little to do with the transportation expenses per car mile?

A. What?

Q. Would not the consist of the traffic — quite a little to do with the transportation expenses per car mile? To give you an extreme illustration, if you had all livestock traffic and light loading and expedited trains on one hand and you had all coal on the other, you'd have high car mile expense on your livestock traffic, would you not?

A. Yes.

Mr. Hillyer: That's all.

Comm. Patterson: Do I understand that right that cost for handling traffic per car mile is substantially different due to the character of the traffic? Isn't a car mile a car mile wherever you find it, so far as car handling expense is concerned?

The Witness: The way he put it, Mr. Examiner, that if we had nothing but coal we would handle long trainloads. If we handled nothing but livestock we couldn't handle so many cars in a train.

By Comm. Patterson:

Q. Do you have on the Seaboard any segregated traffic of that sort?

A. No, we are more or less well-rounded out.

By Mr. Hillyer:

Q. Phosphate rock traffic is peculiar to your line and the [fol. 370] Coast Line in Florida, isn't it?

A. Yes.

Q. And perishable traffic from Florida to the East, that long haul traffic in refrigerator cars is characteristic of interstate movement, is it not?

A. Between November and May, yes.

Mr. Hillyer: That's all.

Mr. Gwathmey: One more question.

Mr. Petteway: May I ask a question I overlooked?

By Mr. Petteway:

Q. Mr. Parsons, what is the relationship percentage-wise between your Diesel units and your steam locomotive?

A. You mean in units owned or in mileage?

Q. Mileage.

A. Well, I can't tell you the exact percentage. We are handling 60 per cent or more of our freight traffic with Diesels and a larger percentage of our passenger with Diesel locomotives.

Q. Is your fuel oil and Diesel oil cost a considerable item in transportation?

A. Yes.

Q. Have you experienced reduction in the cost of that fuel in recent months?

A. Diesel fuel oil has been reduced about a cent and a half a gallon in the last several months, yes.

[fol. 371] Q. How much would that figure a barrel?

A. I don't know. Is there 42 gallons in a barrel?

Comm. Patterson: 75 cents.

A. I don't know how many gallons in a barrel.

Comm. Patterson: 52 in most barrels.

A. That would be about 44 cents.

By Mr. Petteway:

Q. Isn't that a substantial reduction in the cost per barrel of fuel oil as compared with the cost last year?

A. I wouldn't say that it was a substantial reduction, Mr. Petteway.

Q. What does a barrel cost you?

A. I don't know. We buy it by the gallon; the prices are quoted per gallon.

Q. What does a gallon cost?

A. The cost now is about eight and eight-tenths cents. The highest it has ever been is ten and four-tenths cents. It has been reduced nearly a cent and a half a gallon.

Mr. Petteway: That's all.

Mr. Pettijohn: I would like to ask a question.

By Mr. Pettijohn:

Q. You are paying eight cents a gallon?

A. Eight and eight-tenths.

Q. We just concluded a case in Tallahassee where they are paying four and three-tenths cents a gallon.

Q. That must be bunker C fuel oil. This Diesel fuel is a [fol. 372] little more refined than that.

Mr. Pettijohn: That's all.

Redirect examination.

By Mr. Gwathmey:

Mr. Parsons, Mr. Hillyer has asked you some questions about materials of heavy loading commodities in Florida, such as, for example, phosphate rock. Would the handling of phosphate rock along with other traffic be reflected in the figures shown at the bottom of your exhibit No. 4?

A. They are.

Q. What does line 17 represent, loaded car miles per freight train mile? Does it show the relative size of the train?

A. That shows the relative size of the train, yes.

Q. That shows the relative number of cars per train?

A. That's right.

Q. Whatever the movement of phosphate rock might have been, it is reflected in these figures?

A. That's true.

Mr. Gwathmey: That's all.

Comm. Patterson: You are excused.

(Witness excused.)

Mr. Gwathmey: Mr. Chairman, this brings us to our traffic testimony and our next witness we expect to have is Mr. Hinnant of the Atlantic Coast Line Freight traffic department. The suggestion has been made that Mr. Hinnant's [fol. 373] narrative statement be marked as an exhibit and

his exhibit be separately marked as another exhibit and be distributed to opposing parties this afternoon with the idea they may cross examine on this data in the morning. That is agreeable to us.

Comm. Patterson: Do you have any more witnesses that you can go ahead with?

Mr. Gwathmey: Would you mind leaving this off the record for a moment?

Comm. Paterson: Off the record.

(Discussion off the record.)

Comm. Patterson: Are you ready to proceed?
Mr. Gwathmey: Yes, sir.
Comm. Patterson: You may proceed, Mr. Browder.

D. S. Browder was sworn and testified as follows:

Direct statement:

Mr. Browder: My name is D. S. Browder, Traffic Manager of Pennsylvania-Dixie Cement Corporation with headquarters at 60 East 42nd Street, New York 17, N. Y. I have, held this position for the last eighteen years and for eight previous years I was connected with various cement companies in the Birmingham district. Seventeen years prior to that time I worked in L&N Railroad in the general freight office, in various positions from rate clerk to chief clerk, also I am an I.C.C. practitioner under paragraph B and that [fol. 374] is a non-lawyer practitioner.

I would like to make it plain I am speaking only for Pennsylvania-Dixie Cement Corporation by whom I am employed.

Now, the Pennsylvania-Dixie Cement Corporation owns and operates nine cement mills in the eastern part of the United States. Now, there is one at Portland Point, New York; there's two at Nazareth, Pennsylvania; one at Bath, Pennsylvania; one at West Winfield, Pennsylvania. We have one in Kingsport, Tennessee, Richard City, Tennessee, Clinchfield, Georgia, and West Des Moines, Iowa. The principal mill involved in this proceeding is our mill at Clinchfield, Georgia.

Now, I would like to offer for identification at this time my exhibit No. 5.

Comm. Patterson: That will be marked No. 5.

(Protestant's Exhibit No. 5, Witness Browder, marked for identification.)

Mr. Browder: Which is a map of the United States showing the location of all the cement mills in the United States. I might say right here that I wasn't able to get as many of these maps as I wanted and if there is anybody who wants one, I will be glad to prepare and send them later. However, my subsequent map contains all information so far as the Southeast is concerned.

On this map I have marked there in red the location of Pennsylvania-Dixie Cement plant. Now this exhibit is [fol. 375] offered to—just to confirm the location of mills which I have marked in red on a subsequent exhibit, I will put in, and it also shows a wide distribution of cement mills and indicates the competitive situation existing between various mills.

Now the natural market of any cement mill is toward the area of lowest production. In the case of our Clinchfield, Georgia, mill it would be to the northeast and to the south. In other words, if we go west, we run into the mills in Alabama and North Georgia and if you go north you run into Chattanooga, Kingsport, Richard City mills and so the area of the mill is toward the south and northeast.

Comm. Patterson: Where are the mills in Alabama?

Mr. Browder: Those black dots are the points.

Comm. Patterson: Black dots?

Mr. Browder: Yes.

Comm. Patterson: The red ones are your mills and the black dots are the other mills?

Mr. Browder: That's right, yes, sir.

Now, Clinchfield, Georgia, plant is 130 miles north of the Florida state-line and was completed in 1925 which was prior to the time that the Tampa plant was constructed. The Tampa plant, I believe, was completed in September, 1927.

Now, it was located at Clinchfield, Georgia, for the specific purpose of serving Florida and to secure the rate advantage [fol. 376] which the geographical location of such a mill

would give us. However, since the construction of the Tampa plant, we have lost that rate advantage we previously held to practically all of the large Florida markets and we are now in direct competition with the Florida plant on the sale of our product at all points throughout the State of Florida.

Now the report of the United States Department of Interior Bureau of Mines shows that the consuming of cement in the State of Florida is greater than any other state in the South.

Now, I would like to offer for identification at this time my exhibit No. 6 which is a statement showing the annual consuming of Portland cement in the State of Florida and also total amount of annual shipments from cement producing points in the Southeast.

Now, you will note that the consuming of cement, even in Florida, has been constantly increasing since the end of the hostilities in the recent war. During 1948—I might say that the Pennsylvania-Dixie Cement Corporation had a very material interest in this whole Florida cement rate situation. And during 1948, approximately 50 percent of all of the shipments from our Clinchfield, Georgia, point were assigned to destinations in Florida. More than 500,000 barrels and it is equivalent to approximately 2500 cars [fol. 377] of 40 tons each. In addition to that, we shipped over 200,000 barrels from our other plant in Kingsport, Richard City, Tennessee, and our other plants on the whole Pennsylvania-Dixie Cement Corporation supplied almost 20 per cent of all the cement used in Florida.

Now, the principal consuming areas in Florida are: first, the metropolitan Miami district. The second is populous area in the central and western part of Florida, surrounding Tampa and third, the populous area extending west from Jacksonville to Pensacola along the Seaboard Air Line Railroad and the L&N. The preponderance of the Pennsylvania-Dixie shipments were delivered in those particular areas.

Now, we are therefore directly interested in the interstate rate to the destination to Florida and also in the intrastate rates between points in the State of Florida, particularly the intrastate rates applying in the cement mill at Tampa, Florida. The interstate rates, including those from

Clinchfield, Georgia, to destination have been increased under Ex Parte 166 by 26 per cent, with fractions disposed of, subject to four cents increase per hundred pounds. These rates have been in effect since January 5, 1948, except as to the maximum increase that was made effective, I believe May 6, 1948.

The Florida intrastate rates had been increased to 20 per-cent without disposing of fractions, but subject to a maxi-[fol. 378] mum increase of four cents per hundred pounds, which was the same as applied to interstate shipments.

These increases became effective April 1, 1948, in the State of Florida. This lower increase in Florida intrastate rates results in a discrimination against interstate rates from our plant in Clinchfield, as well as the Tennessee plants and other interstate plants as shown on my exhibit No. 5.'

Mr. Hillyer: Please ask the witness not to make conclusions of that kind, otherwise we will have to make objections.

Comm. Patterson: You may proceed. Whatever conclusions he is stating are his, anyway, not the Commission's.

Mr. Browder: Now, I would like to offer for identification this Exhibit No. 7 which is a statement showing the Florida intrastate rates on cement on which the increase of 20 per cent under the Florida Railroad and Public Utilities Commission order 1466-a are less than the maximum increase of four cents per hundred pounds.

Comm. Patterson: That will be No. 7 for identification and the one before that is No. 6 for identification.

(Protestant's Exhibits Nos. 6 and 7, Witness Browder marked for identification.)

Mr. Browder: I might add that it was brought out this morning, we were not supposed to say anything about that, but I have added under the right hand column the Ex Parte 168 rates as those are rates actually paying into Florida now and I added it on and showed what the rates would [fol. 379] be under 166 in the third column.

Now, there is no discrimination against the interstate shipment except under the Ex Parte 168 which is not involved here, where the rates in the Tampa plants equal or

exceed 20 per cent loss as both intrastate and interstate rates of 20 cents or more require four cents per hundred pound increase. Therefore, they are on equality and no discrimination is present there. We are, therefore, now operating under increased disadvantage in meeting competition of the Tampa plant and that disadvantage will continue until the intrastate rates are increased or applied from rates on cement from the Tampa mill.

Now, this difference in rates, as shown on this Exhibit No. 7 here, amounts to any where from one cent to, in some cases, as small as a half a cent or four-tenths of a cent in some places. That is just under 166, but when you add 168, it is considerably greater.

Now when that disadvantage is translated into dollars and cents loss to my company, it becomes a very serious matter and the loss will continue to mount until the discrimination is removed.

I figured it on the conservative basis of 300,000 barrels annually into the area involved in the rates, less than 20 cents and figure the disadvantage of averaging one cent per hundred pounds, our loss would amount to approxi- [fol. 380] mately $1,000 per month, $12,000 per year and this disadvantage would continue forever into the future, and be increased by any further increases in the rate.

The more increases we get, the greater the disadvantage will be. Now, I would like to offer for identification at this time my Exhibit No. 8, which is a map of the Southeast, showing the location of the cement plants in the South in red. Those plants are located the same as shown on the previous map. That simply showed the name of the town without any railroads. This is a railroad junction map and is supposed to be about geographically correct.

Comm. Patterson: That will be marked No. 8.

(Exhibit No. 8, Witness Browder marked for identification.)

Mr. Browder: It also shows in a brown line along the bottom of the map, along the northern part of Florida in a dotted line, taking the 162 rates where the rates from Tampa and Clinchfield, Georgia, are equal, that is where our mileage rates meet. The heavy brown line is the present rate which includes 168 and which has been driven fur-

ther to the north. On the small map of Florida on the side, I have shown the areas in the State of Florida within which the rates are less than 20 cents per hundred pounds from Tampa. Now, those three areas and they are the consuming areas I spoke of just now, around Miami and [fol. 381] Central Florida and along the Seaboard Air Line from Jacksonville to Greenville where there is heavy movement of cement. That is the principal movement.

Now to confirm the importance of these particular areas, I made a check of the official list of stations and found in the whole state of Florida there are 1204 carload delivery stations. Within the three areas shown on this map in purple there are 646 stations or 53.6 per cent of all carload delivery stations in Florida within these three areas.

My company has made shipment during 1948 to practically all of the principal locations within these three areas, including Tampa, Sarasota, Bradenton, Lakeland and many others. And my management is opposed to my filing a list to all of the destinations to which our shipments are made.

Now, I'd like to offer for identification at this time my exhibit No. 9, which is a statement showing rates on cement from various producing points in the Southeast to Miami, Florida, and destination is taking Miami, Florida, rates, which extend from Fort Lauderdale on the north to South Miami on the south.

Now, under the present rates——

Comm. Patterson: Just a minute. That will be marked Exhibit No. 9 for identification.

(Protestant's Exhibit No. 9, Witness Browder, marked for identification.)

[fol. 382] Mr. Browder: Under the present rates the difference in the rate from Tampa to Miami and Clinchfield to Miami is 13.94 cents per hundred pounds. Now, if the same basis of rates is applied on intrastate shipments as now apply on interstate shipments, that Tampa rate would be advanced from 16.8 to 19.08 cents per hundred pounds and the difference would be only 11.66 cents per hundred pounds.

Mr. Petteway: Mr. Commissioner, I believe everyone agreed these Ex Parte 168 rates were not involved in this

proceeding and his testimony is dealing considerably with those rates. May we assume that will be excluded from consideration?'

Comm. Patterson: That's right. Anything involving 168 may be disregarded.

Mr. Browder: But the difference there under 162 under the present adjustment is 1.2 cents per hundred pounds difference in the Tampa rate now and what it would be under the interstate basis.

Now, in view of the losses that we are now having in connection with this lower basis of rates from Tampa, we, of course, urge that this situation be corrected as promptly as possible.

Comm. Patterson: Are you talking about actual losses or something you never got to start with?

A. Those are actual to us. In other words, we have——

By Comm. Patterson:

Q. You mean shipping into an area at an actual loss?

[fol. 383] A. Yes, if these rates were on the interstate basis under normal conditions our price would be that much higher.

In other words, we have to sell by the price set by the Tampa mill.

Q. But are you now taking a loss? You can't lose something you never got.

A. No, but we are not making what we would make otherwise.

Q. That's a better statement.

A. That's right. One reason I asked for this action in connection with this matter is the situation that has existed ever since the Florida cement rates were published under the Docket 15806 case back in April, 1928. Now, in every rate increase that then is made by the Interstate Commerce Commission there has been a delay in the increasing of the Florida rates and, in fact, every case it's been ordered in by the Interstate Commerce Commission.

Now, you will note that on page 3 of this statement that during a period from April 14, 1928 to the present time, which is 21 years, 2 and a half months that the increases were authorized to apply to interstate rates on cement by the Interstate Commerce Commission were not applicable

on Florida intrastate for a period of ten years and a few months. Eight months.

Exam. Mattingly: Is that page 3?

[fol. 384] A. Yes, sir.

By Exam. Mattingly:

Q. What exhibit?

A. Exhibit No. 10. I beg your pardon. I want to offer this exhibit No. 10 for identification. That is a three-page statement.

Comm. Patterson: Exhibit No. 10 for identification.

(Protestant's Exhibit No. 10, Witness Browder, marked for identification.)

Exam. Mattingly: Go ahead.

Mr. Browder: As I said, those increases were not applicable on Florida intrastate traffic for a period of ten years and eight months. That period will be further increased until the Interstate Commerce Commission increases under Ex Parte 162 are authorized on Florida intrastate traffic.

Comm. Patterson: That is what we are trying now, isn't it?

Mr. Browder: Yes, it is, but I say this exhibit is just today. In another month from today it will be ten years and nine months. It is increasing all the time.

Comm. Patterson: What we are doing is to try to determine when we get to it whether it will ever go into effect.

Exam. Mattingly: This Exhibit 10 is three pages, is that right?

A. Yes, three pages. Now, on this exhibit, I think that everyone here is familiar with the cases I've got marked on [fol. 385] the front of it and I won't attempt to go into those various cases as to what they are. They are all marked and show the title and the authority for them.

Now at this time I'd like to offer in evidence all of my exhibits from No. 5 to ten inclusive.

Comm. Patterson: There being no objection five to ten, inclusive, will be included in the record.

Mr. Browder: That's all I have sir.

(Protestant's Exhibits 5 to 10, Witness Browder, were received in evidence.)

Cross examination.

By Mr. Petteway:

Q. As I understand you, Mr. Browder, you say the Florida Commission did not increase the rates on cement in Florida docket comparing to ICC 162?

A. Under 162 there was a delay there. They finally did and my statement shows it later became effective in Florida.

Q. That the present rates were increased by 20 per cent in the last order of the Commission?

A. That's right and this statement shows that on April 1.

Q. Do you have any supporting details concerning your shipments of cement in Florida for the last year with you?

A. I have got a list of points to which I shipped, but, as I said, I don't like to put that into the record. It is kind of a trade secret and we don't like to include that, where we ship and the exact number of barrels shipped.

Q. You are not in a position to advise the Commission of the quantity of shipments last year?

[fol. 386] A. Quantity last year?

Q. Yes, in Florida.

A. I can say this: It was over 7 hundred thousand barrels of cement. As I testified, it is over five hundred thousand from our Clinchfield, Georgia, and over two hundred thousand from our other mills. My company doesn't like for me to put in the exact figures we ship.

Q. Can you divide that down and tell how much was shipped prior to the increases?

A. No, sir.

Q. And after the increases?

A. No, sir, that is for the year.

Q. You don't have any supporting details to show the effect on your shipments of this disparity in rate you refer to?

A. I will say it hasn't affected the number of our shipments at all. We have not refused any business on account of it.

Mr. Petteway: That's all.

By Mr. Pettijohn:

Q. On your exhibit No. 9, where you show the present rate to Miami, Florida, from Richard City, Tennessee, to be 36 cents, do you ship against Tampa at 16.8 cents?

A. We did during 1948.

Q. Well, then, if you can absorb that much difference, which is practically 19.2 cents, why can't you absorb it from Clinchfield?

A. I may say we didn't absorb freight on that in that particular shipment. In other words, since July 19, 1948, [fol. 387] we have been governed by the Supreme Court decision in the so-called cement case and we only have one price and we sell at that regardless of where the cement goes. We don't absorb any freight. We can't absorb any. We hope it is going to be a temporary situation since the bill has already passed the Senate and is now up for action in the House, which would legalize the absorption of freight. But up the present and since last July we haven't absorbed it.

Q. You mean the charges for cement from Tampa and Miami is the same as out of Clinchfield?

A. The same.

Q. The same price delivered at Miami that you do at Jacksonville?

A. No, sir.

Comm. Patterson: He says that that was what the Supreme Court wouldn't let him do.

Mr. Pettijohn: That is what I understood him to say, that he had a fixed rate per barrel.

A. At the mill. We add freight rate and sell at delivery price, which is the delivered price plus the freight rate.

Q. How can you sell under those conditions against Tampa?

A. They needed it bad enough where they bought it at that price.

Q. You mean Tampa mill can't supply them?

A. No, sir, the Tampa mill doesn't make as much cement as my exhibit 6 shows was consumed in Florida.

[fol. 388] Q. I will ask you if the Tampa mill can't make

and doesn't make enough cement to supply the communities within its trade area?

A. I don't know what you consider its trade area, not the State of Florida.

Q. Within a hundred and fifty miles of Tampa?

A. I don't know exactly the size of that mill capacity of that mill. I couldn't tell you whether the cement would be used within a hundred miles of that. I don't know what that would be, but I do know consumption in the entire State of Florida.

Q. If Tampa mill cannot take care of the demand for cement in what respect is the disparity of rates operating against you?

A. Right at the present time, as I say, it has not affected us in any way, since this Supreme Court decision and the demand for cement has been as great as it has, we have been able to sell at our regular price. That will not continue as the movement is now falling off. Shipments are considerably less than last year and the time will come when we cannot sell unless we sell at the same price Tampa mill charges.

Q. Don't you meet foreign cement out of Tampa?

A. We know it is there, yes, sir.

Q. And you have to compete with it?

[fol. 389] A. Yes, sir.

Mr. Pettijohn: That's all.

By Mr. Hillyer:

Q. Mr. Browder, your cement rates into Florida, are on what basis?

A. They are on mileage basis prescribed by the Intertate Commerce Commission in Docket 15806.

Q. And do those rates include an arbitrary for the haul south of Jacksonville?

A. Not in all cases. In other words, we have the same arbitrary southbound as the Tampa mill and Tampa has the same arbitrary that we have north.

Q. Are you satisfied with the reasonableness, with the rates on cement from Georgia into Florida which you are now paying?

A. No, sir, we think all the cement rates are too high.

Q. You are familiar with decision in 28300 in which Florida arbitrary would be removed?

A. I couldn't say I am familiar. I know of it. I wouldn't say I was familiar with all that.

Q. How do you ship traffic out of Clinchfield? What mode of transportation do you use?

A. Rail.

Q. Do you ship any by truck?

A. No, sir.

Q. Do any other cement mills in the south use trucks?

[fol. 390] A. So far as I know, they are not. I don't know of any that are.

Q. Have you traveled in that neighborhood recently? In Georgia?

A. No, sir, I haven't been in South Georgia in some time now.

Q. Would you deny that there are specially designed trucks moving cement from Birmingham district to Jacksonville?

A. No, sir.

Q. Trucks with covers?

A. No, sir, I don't know there is or isn't. I didn't say that.

Q. Do you visit your Clinchfield plant?

A. I haven't recently. I know what we are doing. We are not moving from our plant any cement by truck.

Q. Do you know whether you bid on a contract for cement to Palatka, Florida, in fairly recent months?

A. No, sir, I am not familiar in the sales department except on export business.

Q. I am sorry you don't know.

A. I presume that we did. I will say that we try to take business wherever we can find it and in all places in Florida. I can't imagine why we would refuse to bid on some cement at Palatka, but I don't know. I say I am not familiar with all the bids that the company makes on cement.

Q. Does your plant in Clinchfield make the same grade [fol. 391] of cement at Palatka plant?

A. Palatka?

Q. I mean Tampa plant.

A. It is all Portland cement. It is all made and meets

the specifications of the United States Federal Government.

Q. Is the Tampa output as good as yours?

A. I didn't get you?

Q. Is the Tampa output as good as yours in quality?

A. I say they all pass the specifications, made by the same process and pass the specifications. Somebody might like ours better and somebody might like theirs better, but it is all the same product.

Q. Is the Interstate Commerce Commission section order in Docket 15806 still in effect?

A. So far as I know, yes, sir.

Q. Have you sought any relief in that proceeding from what you have complained of here?

A. That has been under 13 Section case. That was figured—all these situations on this Exhibit 10 has been figured, except as to 166, as the only one pending now.

Q. On your Exhibit 9 you show a rate from Tampa to Miami. Do you know the circumstances under which the rate was made?

A. Yes, sir.

Q. What were they?

A. The Tampa mill either threatened to move or did move. I think they actually did move one or two barge [fol. 392] loads of cement from the Tampa mill into Miami and they filed a proposal to publish a rate to meet that water competition, and the rate was made approximately 70 per cent. All of these rates, reduced rates, from the Birmingham district there and other interstate points—I mean,—were made 70 per cent of normal rates which had a minimum of 50 thousand pounds and those rates were subjected to a minimum of 80 thousand pounds, the low rates were.

Q. Do you have any water service available to Clinchfield to Miami?

A. No, sir, but we do from our Pennsylvania plants.

Q. Do you know whether there is any importation of cement since the war at Florida ports?

A. Yes, sir, there's been some. Last time I heard of it was about 280,000 sacks had been brought into Miami.

Q. Are you in competition with that foreign cement?

A. Yes, it is sold in competition with American cement.

Q. Do you have any special equipment for your cement from Clinchfield?

A. Have any special equipment?

Q. Yes.

A. Railway equipment?

Q. Yes.

A. We move a lot of bulk cement in covered hopper cars. [fol. 393] Q. Who owns those cars?

A. The Southern Railway owns considerable of them, the GS&F, the Seaboard Air Line, we use all of them.

Q. Are they assigned to your plant, the one hundred percent return of those cars?

A. No, not exactly assigned to us. They agree to furnish cars for a particular project with hopper cars. And then they keep us supplied with a lot of time. We don't always get the same cars back.

By Comm. Patterson:

Q. These cars in general are interchanged?

A. Yes, sir, the big 70 ton cars.

Q. They are not assigned?

A. No, the other mills all use them, Birmingham, Clinchfield, Richard City.

By Mr. Hillyer:

Q. Are they used for any other commodity other than cement?

A. Yes, sir, many other commodities.

Mr. Hillyer: That's all.

By Mr. Overton:

Q. Mr. Browder, refer to your exhibit No. 8, if you will please. That is the map.

A. That is the map, yes, sir.

Q. That brown dotted line——

A. Yes.

Q. Or rather first, the brown line which you have marked [fol. 394] as the present equal rate line. Now, that is a line drawn to reflect the equality of freight rates, Clinchfield vs. Tampa, is that correct?

A. That is correct.

Q. Now, where would that same type of line be approximately of it reflected equality of cost to the purchaser? Clinchfield vs. Tampa.

A. I don't believe I understand that.

Q. The cost of cement plus the transportation at the destination?

A. Well, I don't know. I don't know what the Tampa mill is selling their cement for.

Q. You don't?

A. No, sir.

Q. Would you accept my statement that it is materially above your base price at Clinchfield?

A. It may be. I don't know what it is.

Q. And if that be true, accepting that, assuming you reach into Florida considerably south of the brown line shown on Exhibit No. 8, at less cost to the buyer——

A. You mean under the present condition? You mean under the Supreme Court decision?

A. Yes, sir. That's right.

Q. That is what you are operating under?

A. That's right at the present time we are operating under that.

[fol. 395] Q. Could you tell me, Mr. Browder, as to your Exhibit 7, the distance involved until we reach the maximum of four cents increase on Florida rates?

A. I could tell you approximately what it is. I couldn't give it to you exactly.

Q. Let me ask you this: The rates shown on Exhibit No. 7, under column headed rates permitted under Order 1443, Ex Parte 162, are the base rates under the cement scales? They do not include the Florida arbitrary?

A. I didn't understand that. What rates are those?

Q. The rates you show on your Exhibit No. 7 under the first column. What are they?

A. Those are the rates that are shown in the Spanning Southern Cement Tariff for application into the State Florida.

Q. Where would they apply in Florida?

A. Well, they would apply only where there was no specific rate published. For instance, if you would make a ship-

ment from Atlanta, Georgia, for instance, back into Florida, these rates would apply.

Q. These rates would reflect the scale of rates applicable for traffic from the Florida plant?

A. I think it does, except where your arbitraries have been changed from Tampa and Clinchfield.

Q. On a rate from Tampa to Daytona Beach, the rate [fol. 396] would include the Florida arbitrary for the full distance, would it not?

A. I don't know. I doubt if it would because your arbitrary from,—it can't exceed the arbitrary applicable in connection with interstate rate from Clinchfield.

Q. It would include the Florida arbitrary from the distance from Tampa to Daytona?

A. No.

Q. Or the distance from the Seaboard Air Line from Jacksonville to Chattahoochee line to Daytona Beach, whichever provided the lower arbitrary?

A. Yes, sir.

Q. And that rate is not shown on Exhibit No. 7?

A. No. The rate is taken from the mileage scale applicable into Florida.

Q. And excluding the Florida arbitrary?

A. As I said, I understand those rates have the arbitrary, but not rates used from, or rather to, specific destinations, because those all changed with the Commission's decision in this,—that was the 15 per cent case, I believe. Yes. That is back in March of '38.

Q. Mr. Browder, you confuse me now. I asked you first as to exhibit 7, whether that column rate included Florida arbitrary. I understood it didn't, that it was Spaninger's scale without the arbitrary?

[fol. 397] A. As I said my understanding is that it includes the arbitrary.

Q. You don't know?

A. It was in the tariff to apply into Florida and would include the arbitrary.

Q. And in the scale there is no place where it shows it includes the arbitrary?

A. It is a different scale of rates which would apply.

Q. The arbitrary is shown separately in the tariff?

A. That's right.

Q. Did you, when you prepared the exhibit, put the scale down and put to it the Florida arbitrary?

A. No, no, sir, because the Florida arbitrary——

Q. Just answer the question.

A. No, sir.

Q. Then the scale you have shown on Exhibit No. 7 does not include the Florida arbitrary?

A. It probably does not. I added no arbitrary to it.

Q. Every rate on cement from Tampa to every destination south of Seaboard Line from Jacksonville to Chattahoochee includes a Florida arbitrary, does it not?

A. Correct.

Q. So rates on Exhibit 7 do not apply from Tampa plant in any instance except to points in North Florida?

A. No, and I would say those are specific rates that are published in the tariff from Tampa to various points. In [fol. 398] other words, there is a seven and a half cent rate from Tampa to some points in the State of Florida that is not a mileage fee.

Mr. Overton: That's all.

Comm. Patterson: You are excused.

Mr. Harrison:

Q. Has there been an abnormal demand for cement for the past two or three years?

A. In certain territories, yes.

Q. And consumers of cement have drawn that from any source from which they could buy it?

A. That is correct.

Q. Now, roughly speaking, cannot you draw a line through Gainesville, Palatka, north and west, and won't that come within the aforesaid maximum increase from Tampa?

A. Sir?

Q. Roughly, can't you draw a line from Gainesville through Palatka to Jacksonville north and west of that and won't all of that territory be affected by the four cents hold down maximum increase from Tampa?

A. No, your rate is less than twenty cents to Lake City, which is north and west of that.

Q. Not the Gainesville, though?

A. Yes, it is less than 20 cents at Gainesville.

Q. Aren't the rates from Clinchfield to Lake City lower than rates from Tampa to Lake City today?

[fol. 399] A. I can check that. You mean you want my rates today including 168?

Q. No, 166.

A. All right. Now, you want the rates to Gainesville: the rate from Tampa to Gainesville increased under 162 is 19 cents a hundred pounds. Now, the Clinchfield rates increased under 162 is 22 cents to Gainesville.

Q. You are two-tenths of a cent out of line to Gainesville. Your four cents hold down, 20 times 19 cents. 3.8.

A. Your 19 cents would be increased to 22 December 8, under 166.

Q. 3.8 cents. That is the increase and maximum increase is four cents from Clinchfield. So your differentiation is two-tenths of a cent. Don't you have advantage of Tampa on all territories west of Chattahoochee River?

A. Yes, sir, west of Chattahoochee, yes, sir.

Q. If you have any discrimination, isn't it confined to a radius of 150 miles around Tampa plant and Miami area?

A. No, I don't understand that. I would understand that all this area,—Atlantic City, we have discrimination where we have full amount of increase and they have only 20 per cent.

Q. Except for a few points in North Florida, where they don't have the Florida arbitrary?

A. That's right.

Q. I think it well to show for the record, if you can, places [fols. 400-401] in Florida and amounts of difference you claim, if you can, by the differences from present rates of Tampa under 166 and your rates under 166 interstate, if you can do that.

A. You mean per barrel?

Q. Per hundred.

A. You want me to take every point in Florida?

Q. I would like to have a statement of rates where you say you are discriminated against from Tampa.

A. I show that on ten. Every point within the blue line of Exhibit 10.

Q. I didn't get the exhibit.
A. I will send you one.

By Mr. Mattingly:

Q. Does that include the total rates, Tampa's and your Pennsylvania ones?

A. That's right and there is no arbitrary from Tampa to Lake City or Jacksonville to Lake City.

Q. Where there is an arbitrary, it is included?

A. Yes, in the statement here.

Comm. Patterson: If there is no further cross examination, you are excused.

(Witness excused.)

Comm. Patterson: We will recess until nine o'clock tomorrow morning.

(At 5:10 o'clock p. m., June 28, 1949, hearing adjourned to nine o'clock a. m., June 29, 1949.)

[fols. 402-403] Met pursuant to adjournment at 9:00 o'clock a. m.

[fol. 404] PROCEEDINGS

Comm. Patterson: You may proceed, Mr. Gwathmey.

C. L. HINNANT was sworn and testified as follows:

Direct examination.

By Mr. Gwathmey:

Q. Please state your name, residence and railroad position?

A. C. L. Hinnant, Wilmington, North Carolina, As-istant Freight Traffic Manager of the Atlantic Coast Line.

Q. Mr. Hinnant have you prepared a narrative statement in the form of certain testimony which you wish to offer in this proceeding, together with an exhibit?

A. I have.

Q. Are the matters contained and set forth in the statement and the exhibit true and correct to the best of your knowledge and belief?

A. They are.

Mr. Gwathmey: Mr. Commissioner, if it is agreeable, we ask that the prepared statement be marked as Exhibit No. ——

Comm. Patterson: No. 11.

(Respondents' Exhibit No. 11, Witness Hinnant marked for identification.)

Mr. Gwathmey: And the Exhibit will be No. 12?

Comm. Patterson: 12, that's right.

(Respondents' Exhibit No. 12, Witness Hinnant marked for identification.)

[fol. 405] By Mr. Gwathmey:

Q. Mr. Hinnant, does the Atlantic Coast Line act as the chairman line of the carriers' committee in matters pertaining to Florida rates?

A. It does.

Q. And as Chairman of the Committee of Carriers for Florida, does the Atlantic Coast Line undertake to present in this case testimony on behalf of the Florida railroads as a whole in dealing with the entire situation?

A. That's correct. The Coast Line as Chairman assumed the larger part of the burden in this proceeding.

Q. Yes, sir, the carriers asked you to have withdrawn from this case the rates on road aggregates, also rates on fertilizer between stations on the Florida East Coast Railway?

A. Yes, sir.

Q. Have you as a matter of fact conveniently computed the change which would result in the carriers' previous computation of revenue losses on account of withdrawal of these particular rates?

A. I have.

Q. Perhaps you'd better give that as a matter of convenience?

A. I have shown at page 8 and a half,—I did not brad

it with the rest of the Exhibit 11, but it had been run in and on that page are indicated the totals which should be excluded from the estimated revenues lost by reason of the two adjustments which are not now included in [fol. 406] this proceeding. On a yearly basis that would be $711,697.45 to be excluded because of elimination of road aggregates. The fertilizer and fertilizer materials, including superphosphate, moving locally on the Florida East Coast Railway amount to $62,499.19.

Q. Have you shown in your prepared statement, Exhibit No. 11, the carriers' estimate of the annual revenue loss as a whole resulting from the failure of the railroads to secure the increases corresponding with interstate increases?

A. On page B-37 of Exhibit No. 12, the total yearly estimated lost revenue is shown to be $1,795,437.34. On page 9 and a half which has been run in on Exhibit 11, I have deducted the two amounts named which should come by reason of exclusion of road aggregates and Florida East Coast fertilizer adjustments, also rather minor adjustments that should be made by reason of transits being given on logs, and the total of all three of those is $777,419.86, deducting that from the sum shown on page B-37 of Exhibit 12, leaves an estimated annual revenue loss of -1,018,017.48.

Q. Were these estimates of revenue loss all computed on basis of a traffic test which the railroads had made for the purpose of this case and which is fully described in your prepared statement?

A. That is correct, sir.

Mr. Gwathmey: Mr. Commissioner, we ask that exhibits No. 11 and No. 12 be received.

[fol. 407] Commissioner Patterson: There being no objection, they will be received in the record.

Mr. Hillyer: May I have an opportunity to object? Mr. Hinnant's testimony comprises about 79 pages of text of very difficult matter. His Exhibit 12 is about 263 pages, more or less. Overnight we were given an opportunity to see the text and the exhibit. At a time well after midnight after applying myself to this particular subject, I finally completed a quick reading of the text. I have been unable to examine the 263 pages of Exhibit and I am not in

position to cross examine at this time nor are we prepared here at this time to rebut that testimony until we have seen what it is.

I ask that any ruling as to the receipt of the exhibit be reserved until we have studied it, until we have presented other objections. I want to present a motion to strike certain portions of that exhibit and the text; from my quick reading of it, I gathered that the witness is attempting to go into the reasonableness per se of a number of specific commodity adjustments and many of those are not embraced in the complaint. We had no notice the reasonableness of those adjustments was to be subject of testimony in this proceeding and we are not prepared to go into those shipments. Ship-ers of a lot of those commodities are not here. They had no notice that a [fol. 408] number of those particular commodity adjustments were to be considered. As to one of them I made a particular inquiry from representatives of the carriers as to whether there would be any testimony to that particular class of goods and as far as they knew, they said there would be none. Those shippers are not here. This, as I understand it, as a purely and simply a general revenue case.

The Interstate Commerce Commission has repeatedly held in cases that the reasonableness of particular rates cannot be considered in a general revenue case. And I move that if this exhibit is received that there be stricken from it all of the text and all of the Exhibit 12 which have a bearing upon reasonableness of specific commodities adjustments. I refer particularly to phosphate rock, Exhibit 11, page 56 to 49, page 74 and portions of the exhibit which match up. I haven't been able to check that yet. Tin cans, page 59 of Exhibit 11 and the rate exhibits in the exhibit 12. Plaster and gypsum lath, page 60 of Exhibit 11 and rate exhibits in exhibit 12. Sulphuric acid, page 62 of the text in 11 and rate exhibits in Exhibit 12. Asphalt, page 63 of the text, pulp board and paper boxes, page 63 and 64 of the text. Brick, page 64, insecticides, page 65. Lime, page 68 and livestock, page 68 and rate exhibits in Exhibit 12 which relate to those commodities.

[fol. 409] There is some space taken up in the text with

a discussion of the rates over parallel routes where the one is interstate and the other is intrastate between the same points. I move to strike that testimony on the ground that an issue of that kind does not belong in a general revenue case and was not raised in this case. If a common carrier over interstate wants to meet rates of intrastate, that is not a matter which should be investigated in this proceeding. It is not in issue and I move to strike all of those portions in respect to competitive routes.

Mr. Gwathmey: Mr. Hillyer has apparently overlooked the fact that the Florida Railroad Commission did not grant the last five percent increase which was authorized by the Interstate Commerce Commission in Ex Parte 166, did not grant that increase on any commodities, class traffic or commodities in Florida. Therefore, all the rates are at issue in this proceeding. I don't know what Mr. Hillyer means talking about this being revenue. It is a 13 Section case. And the Commission, of course, knows under the decision of the Supreme Court, in 13 Section cases it is incumbent upon the carriers to produce reasonableness of rates because as the Court has said in the old Florida loggery case and several other cases, the Interstate Commerce Commission has no authority under Section 13 to order a raising of intrastate rates above a reasonable level. So I submit that that motion is out of order.

[fol. 410] Mr. Hillyer: I understood that the difference between 20 percent and 25 percent was involved as to those commodities not specifically treated by the Florida Commission. In my opinion, these exhibits go far beyond that and apparently are intended to oust the jurisdiction of the Florida Commission of a lot of commodities not in issue with the exception of that five percent which tends to general revenue.

Comm. Patterson: Overruled.

Mr. Petteway: Could I have an opportunity to join the objections and motion and I'd like to point out in reply to Mr. Gwathmey about the five percent: The Florida Commission did not grant—I'd like to point out this case is brought while the Florida Commission still has it under consideration and before final finding has been entered.

Mr. Maurer: I'd like to join the objection. We left here

immediately after the hearing and proceeded to attempt to study Mr. Hinnant's exhibits, worked until way after one o'clock this morning. As far as I am concerned, up to now I have not had an opportunity to read the testimony and not had a chance of properly examining the exhibit and I join in Mr. Hillyer's request that regardless of the action taken on his motion that we be given a proper period of time in which to study the exhibit and to cross examine Mr. Hinnant where we find cross examination necessary.

[fol. 411] Mr. Overton: I want to join in that motion and will add that I personally left here at the close of the hearing and worked on the exhibit now identified as Exhibit 12 and nothing else until after one o'clock. I have not completed that exhibit and I have not had an opportunity to read the text which has been identified as Exhibit no. 11. There is a tremendous amount of detail in Exhibit 12 and in order not only to complete our study, we certainly should be given such opportunity to at least read both the text, his document identified as Exhibit 11 and have an opportunity to study the rate matters and other matters illustrated in the document identified as Exhibit No. 12.

Comm. Patterson: Motion overruled, except that a time for cross examination will be deferred a reasonable length of time to give the parties an opportunity to prepare for cross examination.

Mr. Gwathmey: If the Commissioner please, am I to understand that the exhibits are received?

Comm. Patterson: The exhibits are received, but the time for cross examination will be deferred.

Mr. Gwathmey: Yes, sir.

(Exhibits Nos. 11 and 12, Witness Hinnant, received in evidence.)

Comm. Patterson: You are excused, subject to recall.

(Witness excused.)

[fol. 412] W. W. WOLFORD was sworn and testified as follows:

Direct examination.

By Mr. Gwathmey:

Q. Please state your name, residence and railroad position?

A. W. W. Wolford, Norfolk, Virginia. I am Assistant Freight Traffic Manager of the Seaboard Air Line Railroads.

Q. In addition to and supplementary to the testimony presented by Mr. Hinnant, have you prepared in a narrative form a statement and one exhibit which you wish to submit at this time?

A. I believe it was not one exhibit. It requires more than one number the way I have got it prepared.

Q. Are the matters and things contained in the prepared statements and accompanying exhibits true and correct to the best of your knowledge and belief?

A. Yes.

Mr. Gwathmey: Mr. Chairman, may we have the prepared statement given an exhibit No. for identification?

Comm. Patterson: No. 13.

(Exhibit No. 13, Witness Wolford marked for identification.)

Mr. Gwathmey: Will you just run through the exhibits and number them?

Exam. Mattingly: Off the record.

[fol. 413] (Discussion off the record.)

Comm. Patterson: On the record.

Mr. Gwathmey: I now ask that exhibits that have been identified by the witness as Nos. 13 to 21, inclusive, be received.

Comm. Patterson: The exhibits submitted by——

Mr. Hillyer: May we have an opportunity to examine them before a ruling is made?

Comm. Patterson: The exhibits submitted by Witness Wolford, numbered 13 through 21, inclusive, will be re-

ceived for the record, subject, of course, to objections later.

(Exhibits Nos. 13 to 21, inc., Witness Wolford, received in evidence.)

Mr. Gwathmey: The witness is now available for cross examination.

Comm. Patterson: Cross examination will be deferred with respect to this witness also.

(Witness excused.)

A. P. McCormack was sworn and testified as follows:

Direct examination.

By Mr. Gwathmey:

Q. Please state your name, residence and railroad position?

A. My name is A. P. McCormack and address is Room 206 Louisville and Nashville Railroad Building, 908 West [fol. 414] Broadway, Louisville, Kentucky.

Q. What position do you hold with Louisville and Nashville Railroad?

A. Chief Clerk in the Commerce Branch of the Traffic Department. I have been connected with the L&N Railroad for approximately 40 years, 29 of which have been in the Traffic Department, dealing with rates, rules and regulations pertaining to freight traffic. I am Chief Clerk in the Commerce Branch, which position I have held for the past three years and prior to that, Chief Clerk in the General Freight Office.

Q. Have you prepared several exhibits which you desire to present in this case?

A. I have.

Q. Will you produce these exhibits and distribute them or have they been distributed?

A. They have been distributed.

Mr. Gwathmey: May we take a moment off the record to number these exhibits?

Comm. Patterson: All right. Off the record.

(Discussion off the record.)

Comm. Patterson: On the record. The exhibits submitted by Witness McCormack will be numbered 22 to 28, inclusive, and will be received for the record.

Mr. Petteway: Is that received subject to objections?

[fol. 415] Comm. Patterson: Subject to objections later.

(Exhibits Nos. 22-28, Inc., Witness McCormack, received in evidence.)

By Mr. Gwathmey:

Q. Mr. McCormack, you have not prepared a statement, so I am going to ask you to very briefly run through the exhibits and explain just what they purport to show?

A. Exhibit No. 22 is portraying the situation on carload traffic in general, $20 per car is the minimum on general car loading traffic, with 162 increases; in the right hand column there, you will find about the third paragraph a list "Charges". The first of which, is prefixed by an "a" in parenthesis, $20 per car and that is subject to Ex Parte 162 increases except it does not apply on certain state traffic.

Now this charge is subject to the 166 increases. Where authorized on Florida, it is 20 percent and interstate, it is 25 percent under 166. The charges does not apply to low grade commodities including wastewood. Nevertheless, it is indicative of the fact that we are getting a whole lot less revenue on our wastewood handled than we are getting on general traffic.

Q. Are these charges you have shown on Exhibit No. 22 the minimum per car earnings as provided in the consolidated freight classification?

[fol. 416] A. Yes, sir, except on low-grade commodities that are shown from the list of exceptions there in the last paragraph on the left side of the exhibit.

Q. Now, will you explain briefly exhibit No. 23?

A. Exhibit No. 23 is the state of present and proposed Florida intrastate rates on wastewood for distances up to 3 hundred miles compared with present equivalent of rates approved by the Interstate Commerce Commission in I&S

Docket 1668 for like distances. The present Florida State rate is on 30 miles and under is 2.75 and ranged down to 6.5 cents for 300 miles and over 260, whereas the present equivalent on traffic described on approved in I&S Docket 1668 range from 4 cents to 10 cents for 300 miles and over 260 miles.

Q. Take up exhibit No. 24 please.

A. That is a statement showing rates on resinous waste-wood, carload, to Pensacola, Florida, from Alabama origins and in comparison, the present and proposed rates based on scale applicable on Florida intrastate traffic for the same distances.

Q. Go right ahead.

A. Taking No. 25 it shows the present and proposed rates on wastewood, carload, on Florida intrastate traffic, for single-line hauls compared with the present rates from Atlantic Coast Line Railroad Stations in Florida to Bruns- [fol. 417] wick, Georgia, for representative distances. The numbers in the columns to the left under No. 1 are those which generally apply in the State of Florida and which while they are somewhat lower, they are subject to a minimum weight of 40,000 pounds, whereas the rates to Gainesville and Brunswick to the right under column 2 are numbered column 2, there are 60,000 pounds minimum, with excess in proportion. These don't make for comparison because wast-wood does not usually load to 60,000 pounds or to excess of 60,000 pounds. Our recent findings were that the average is around 50 or 51 thousand pounds, so applying the 60,000 pounds to the 50,000 pounds of wood, you would have a better comparison than this particular statement shows. Taking No. 26, it shows the percentage increases authorized on wastewood by the Interstate Commerce Commission and various state commissions and it speaks for itself. Taking Ex Parte 123 as the index there, it runs down and shows under Ex Parte 166 that we have only gotten the ten percent, whereas, in all other states, you gotten more than that, even in the State of Alabama we have 111.?, and no decision has been made as to those increases in Alabama.

Q. Do you mean that you have only gotten 10 percent increase in Florida?

A. That's right. We have gotten less increase on [fol. 418] wast-wood in Florida than any other states and there is movement in most of the other states.

No. 27 shows tons originated, miles of road operated, revenue ton miles and traffic density on the L&N Railroad for the year 1948 in the State of Florida, compared with other southern states. Our traffic density was less in the State of Florida than in each of the other states that are shown in comparison therewith. Revenue ton miles 160,444,000 and percent is 1.03.

Q. In Florida?

A. Yes. Revenue ton miles per mile of road, 660,889 and the percent is 3.89.

Q. Percentage of what? What do you mean percentage 3.89?

A. Revenue of the tons carried, of the system tons carried.

Q. Percentage?

A. That's right in the southern states. You run across and see these percentages at the very bottom of the exhibit, total 100. Each of those figures shows the relative percentage of the state traffic carrier.

Q. You are confining yourself to traffic handled by L&N Railroad, are you not?

A. Yes, sir, originated tonnage.

Q. Showing relative traffic density in the line of your company in the State of Florida as compared with other portions of L&N system, is that correct?

[fol. 419] A. Yes, sir. Exhibit No. 28 showing operating ratio of L&N Railroad on Florida traffic compared with all traffic on L&N Railroad. Also a comparison of the number of cars and tons carried in Florida vs. all L&N Railroad traffic for the years 1945 and 1948. The purpose for using year 1945 in comparison with 1948 was to indicate a year that we did not have those increases compared with one in which we did. The operating ratio within the State of Florida during the year 1945 as will be seen was 108.87 and notwithstanding the increases, the operating ratio in 1948 increased to 131.64.

Q. That is within Florida?

A. That is within Florida, yes, sir. Now, all traffic in

comparison in 1945 was 74.53 and in 1948 it was 81.8. There was an increase on Florida intrastate of approximately 23 point, whereas on all traffic the increase was approximately seven percent.

Q. Do these figures mean, Mr. McCormack, that in the State of Florida, on the line of the L&N, it is costing your company $1.31 to earn a dollar of revenue?

A. Yes, sir.

Q. Is there anything further you want to say, Mr. McCormack?

A. No, sir.

Q. I think perhaps you'd better explain just what this wastewood is?

[fol. 420] A. Wastewood is stumps and logs and other offfall. Wastewood is not good for anything else. It is used in the processing of turpentine and other naval stores.

Q. Is there a rather substantial movement of this commodity over the line of the L&N in Florida?

A. Yes, sir, we have had quite a movement of it and Mr. Hinnant's statement shows our movement for a representative period would be indicative of what our intrastate movement is.

Mr. Gwathmey: Mr. Commissioner, we offer in evidence the exhibits that have been identified by the witness as Nos. 22 to 28, inclusive, and ask they be received.

Mr. Hillyer: May I inquire the qualifications of the witness for certain exhibits before you make the ruling?

Comm. Patterson: Read back the qualifications of the witness. I think he stated his qualifications.

Mr. Hillyer: He did?

(Qualifications read by the reporter.)

Mr. Hillyer: I want to lay the basis of an objection.

Comm. Patterson: You may proceed to question the witness, Mr. Hillyer.

Cross-examination.

By Mr. Hillyer:

Q. Who made up the figures shown on exhibits 27 and 28?

[fol. 421] A. They were made in the traffic department under my direction.

Q. Did your traffic department make up the figures on Exhibit 28?

A. No, they didn't.

Q. Who made those?

A. Those were taken from our accounting department and furnished to the traffic department in the preparation of these. They are freight figures of tons of traffic——

Mr. Gwathmey: May I make a statement? Mr. Davis, the accountant of the L&N is present here at the hearing and if anybody wants to ask any questions about those figures, he is available.

By Mr. Hillyer:

Q. You are not an accountant?

A. No, I didn't qualify myself as one. I'm traffic manager.

Q. You are not in a position to be cross examined as to how that figure, operating expenses within Florida, was computed, are you?

A. I'm not, no, sir.

Mr. Hillyer: I move you reject Exhibit No. 28 on the grounds the witness is not qualified to present that exhibit.

Mr. Gwathmey: We will call another witness to prove that.

Comm. Patterson: This Exhibit No. 28 will be excluded from the record at the moment. You may proceed, Mr. [fol. 422] McCormack. Are you through, Mr. Hillyer?

Mr. Hillyer: I was only laying the foundation for the objection.

Comm. Patterson: I know, but you weren't through with your examination of the witness.

Exam. Mattingly: Are you through with your objection?

Mr. Hillyer: Yes, sir.

Comm. Patterson: Exhibits 22 to 27, inclusive, by the witness, McCormack, will be received for the record.

(Exhibits Nos. 22 to 27, inclusive, Witness McCormack, received in evidence.)

Mr. Petteway: With reference to cross examination, Mr. Commissioner, the Florida Commission and the State of

Florida would like to reserve their cross examination of this witness until Mr. Ribe and the other rate men have finished their cross examination. I think we might save some time that way.

Comm. Patterson: That is satisfactory.

By Mr. Ribe:

Q. Mr. McCormack, on your exhibit No. 23, in the right hand, last right hand column you show a scale of rates approved by the Atlantic Coast Line in Georgia to Jacksonville, Florida in a certain Interstate Commerce Commission procedure. Do you know whether or not those are the rates actually in effect today on which the traffic is moving from Atlantic Coast Line Railroad stations?

[fol. 423] A. I do not. We just cited that as a scale of rates that the Commission has previously approved on this class of traffic.

Q. Do you know what the scale of rates from Georgia to Jacksonville, Florida, are today?

A. I do not have those, sir.

Q. You show on your exhibit 24 a comparison of rates on resinous wast-wood from Alabama to Florida, and distances of similar distance. Do you know whether the rates you show from Alabama origin actually move in traffic?

A. I have a record from Alabama points. Not all of these but some of them in the recent past. But I can say definitely that there is an interstate movement from Alabama origin to Pensacola, Florida.

Q. You do not know whether or not there is such a movement today?

A. At the present I couldn't say, but there has been in the recent past.

Q. Turning now to your exhibit No. 25, commenting on the 60,000 pound minimum rate in that exhibit, you stated a figure of 52,000 pounds as the average loading of waste-wood. What does that figure represent? Average loading for what period of time on what railroad?

A. On our own railroad. We made a test sometime back. I am speaking from memory. It ran about 51,000 pounds. [fol. 424] That was on our receipts on the delivery basis on the L&N at Pensacola.

Q. Do you know what period of time that test was?

A. I think a year's period.

Q. Do you know what year?

A. I don't recall. I am just speaking from memory.

Q. Do you know what the minimum loading of a car was during that period of time?

A. Well, it was during the time of the ODT restrictions, I can't say. But there is no way to tell. Wastewood, you could put 40,000 pounds. It all depends on what kind of wood you use. I have seen them load branches and bows; I don't think you could get 40,000 pounds and still fill the visible capacity of the car, which you could do under ODT.

Q. Do you know what the maximum loading during that period of time was?

A. On wastewood?

Q. Yes, sir.

A. I couldn't tell you that.

Q. Do you know what proportion of the cars moving during that period of time contained a load of 60,000 pounds or more and what proportion contained loads of less than 60,000?

A. I didn't attempt to develop that.

[fol. 425] Q. Did you not know that the loading varies rather widely and a simple average is not indicative of what the average movement actually is?

A. I would say the average is something you'd have to *guage* the revenues by because you get paid off on the basis of what you haul. If you handled so many 40,000 pounds and so many 60,000, and you averaged it up and you'd get paid per car on the basis of average loading.

Q. Have you made an attempt to compare 60,000 pound rate from the Atlantic Coast Line and Seaboard Railway station from Florida to Gainesville or Atlantic Coast Line Stations in Florida to Brunswick with similar charges to Pensacola, Florida?

A. I have not.

Q. Are you here asking this Commission to require an increase in the rates to Pensacola which would require the receiver at Pensacola, Florida, intrastate to pay higher charges per car than are now voluntarily assessed from stations in Florida to Brunswick, Georgia?

A. If that is the result of getting the increase we are asking for, I'd say yes to your question.

Q. Turning now to exhibit No. 27, you show revenues and ton miles per mile of road in the State of Florida, 660,889. Going back to your exhibit No. 23, you show these rates that are here proposed for application with Florida. Have you [fol. 426] made any inquiry to determine whether or not the rates that you are now proposing, asking for in this proceeding, will continue to move this traffic by rail?

A. I don't know how else it could move if the rates are $11 a car, you couldn't get anybody to haul it but a railroad.

Q. You have made no investigation of that?

A. No, sir. The charges are so low that we don't have any feeling at all they will be diverted to any other form of traffic.

Q. Do you know some has already been diverted?

A. I haven't heard of it unless it is short hauls where there wouldn't be rail service available.

Q. Now, you have only shown in your exhibits rates from the L&N origins proper. Do you know whether or not there is any movement or any important movement from the L&N connecting lines in Florida? Or originate at the Seaboard, Apalachacola Northern or Marianna-Blountstown?

A. I do not. These were my own rates here. There has been some movement off our connection but it hasn't been important. I wouldn't class it as that.

Q. Do you class that as important?

A. With respect to the amount of tonnage with connecting lines compared with what is originated on our own railroad, no.

[fol. 427] Q. Your opinion is that most of the traffic is originated on your own railroad?

A. I understand the bulk of it came from local stations on the L&N railroad.

Q. Do you know what scale of rates or what rates apply on traffic from origins beyond the L&N? For instance on Apalachicola Northern?

A. I couldn't——

Q. Apalachicola Northern in connection with L&N to Pensacola?

A. I understand it applies generally. I couldn't say what rates are actually published without looking at the tariff.

Q. Do you know whether or not the scale of rates shown on Exhibit No. 23 is now applicable to Florida intrastate and restricted to, restricted solely to single-line application?

A. It applies single line and joint line, too, as I understand it. It is a common tariff and applies over the road over which it travels.

Q. We will say it is a single line and has no application on joint line traffic——

Exam. Mattingly: Off the record.

(Off the record.)

Mr. Ribe: That is all.

By Mr. Pettijohn:

Q. Turn to Exhibit No. 27, please. What significance has your percent 3.89 on line 17 under Florida?

A. What was that question?

[fol. 428] Mr. Pettijohn: Please read the question.

(The question was read by the reporter.)

A. The significance of that is that we get less revenue from Florida traffic than from any other state traffic in the South.

Q. That doesn't refer to revenues, does it?

A. No, but that is the significance of it. You asked the significance of it.

Q. Let's see if that is what it means. In order to arrive at 660,889 revenue, you divide the revenue ton miles on line 12 by the miles of road operated on line 10, do you not?

A. Yes.

Q. Well, now, will you turn to——

Exam. Mattingly: Wait a minute, revenue ton miles is on line 10.

Mr. Pettijohn: Did I say 11? Excuse me.

By Mr Pettijohn:

Q. Will you turn to the total column and divide the revenue ton miles on line 12 by the total miles operated on line 10?

Comm. Patterson: Have you done it, Mr. Pettijohn? If you have——

Mr. Pettijohn: Yes, approximately 3,540,000.

Exam Mattingly: All right. Mr. McCormack, Mr. Pettijohn says he has made that mathematical calculation. You are perfectly willing to agree he can divide a figure by [fol. 429] another?

A. Yes.

Exam. Mattingly: Take his figure.

By Mr. Pettijohn:

Q. Then your traffic for the road is 3,540,000 tons instead of 17,010,123, is it not?

A. It should be on that basis.

Q. Well, your 17,010,000 is simply an addition of revenue ton miles per mile of road through the states you operate?

A. That bears out by taking that across, opposite line 14, 15, 16.

Q. What does it really mean?

A. The significance of it shows that we are getting less per ton in Florida traffic than the other traffic that we have handled in the other states. I will reiterate.

Q. Doesn't it really show line No. 15, doesn't it really show a comparison of your traffic density per mile of road in Florida with the other states and when you come to compare it with the system, you should compare it with 3,540,000 instead of with 17,000,000?

A. That's right.

Mr. Pettijohn: That's all. Thank you.

Exam. Mattingly: What was that figure, the correct figure on line 15 for Florida?

Mr. Pettijohn: 3,540,000.

Exam. Mattingly: How is that figure arrived at?

[fol. 430] Mr. Pettijohn: By dividing 15,595,029,000 by 4,406.36.

Exam. Mattingly: What I was talking about particularly was Florida.

Mr. Pettijohn: That is ascertained by dividing line 12 under Florida by line 10 under Florida.

Exam. Mattingly: And the correct figure is five or six times more than they have down here?

A. No, that figure is correct as far as I can see under Florida, but the figure under the total column of 17 million plus, is absolutely in error and is meaningless and instead of that should have about 3,540,000.

Exam. Mattingly: All right.

Mr. Pettijohn: That's all I have, thank you.

Comm. Patterson: Any further cross-examination?

By Mr. Hillyer:

Q. Mr. McCormack,

A. Yes, sir.

Q. Will you describe your main line in the State of Florida?

A. Our principal main line in the State of Florida, is from Flomaton Junction, the point the main line crosses into the State of Florida, east of there and runs to the Chattahoochee, Florida.

Q. What is the largest city or town served by that line?

A. Pensacola, Florida, of course.

Q. You said Flomaton to Chattahoochee. What is the largest city on that line between Flomaton and Chatta-
[fol. 431] hoochee? It Pensacola the only city of any size served by that entire line?

A. Of any considerable size, yes, sir, we have got Marianna, and some others that have sizeable population, but nothing compared with Pensacola.

Q. And at Chattahoochee merely connects with the Seaboard Air Line there that runs to Jacksonville?

A. That's right.

Q. Do you have passenger service on that line?

A. That's right.

Q. Do you know the average speed of your best passenger train on that line?

A. What? Do you know the average speed of the best time you have?

The Witness: May we have a short recess, please?

Comm. Patterson: We will take a short recess.

(Recess had.)

Comm. Patterson: You may proceed with the cross-examination.

By Mr. Hillyer:

Q. I was asking you about the scheduled time of operations of the passenger trains on your Florida line. Is it not a fact that is a very slow service and poorly patronized?

A. That's right.

Q. Isn't it a fact that in order—that in comparison with other states of the South your line has branch lines and [fol. 432] cross lines on which there is low traffic density?

A. Yes, we have some that have low traffic density.

Q. Isn't it a fact that most of your heavy traffic density moves in a north to south or south to north direction rather than directly east to west?

A. That's right.

Mr. Hillyer: That's all I have.

Comm. Patterson: Any further cross-examination? You are excused.

Mr. Gwathmey: Pardon me. May I ask one?

Redirect examination.

By Mr. Gwathmey:

Q. Mr. McCormack, will you please look at your exhibit No. 27. Do you have it before you?

A. Yes, sir.

Q. On line 17, in which you show some percentages and explain exactly what you mean by those percents?

A. Well, those percentages indicate the revenue ton miles in the several states in the south which we operate. Florida, for instance, 3.89, is that percentage of the tonnage that was handled over the railroad in the six states named in the heading.

Q. Well, pardon me, Mr. McCormack, isn't what you have done this: You show in the last column on the right a total of 100?

A. Yes, sir.

[fol. 433] Q. Is that the total of the percentages shown in the other column?

A. Yes, sir.

Q. And is the purpose to show how Florida net revenue tons per mile of road compares with corresponding figures in other states in which the L&N operates?

A. That's right.

Q. So that if you have a total of 100 percent, you find that Florida is 3.89 percent as compared with Alabama 15.47 percent?

A. Yes, sir.

Q. So that shows the relationship from the standpoint of net revenue tons per mile of road between Florida and Alabama, for example?

A. Yes, sir.

Q. And on there as to Georgia, Mississippi, Tennessee, Kentucky; is that right?

A. Yes, sir.

Mr. Gwathmey: All right.

Exam. Mattingly: Let me ask just a question to see if I've got this thing straight or not.

By Exam. Mattingly:

Q. On line 15 of exhibit 27 is the total of 17 million over in the last column the sum of each item for the different states, crosswise in line 15?

A. That's right. It is the sum of the six figures shown [fol. 434] across under each of those states in the head.

Q. Now, the 3.89 percent, under Florida, does that represent the percentage which 660,889 is of 17 million, ten thousand odd?

A. Not necessarily. 3.89 represents the amount 660,889 is of 17 million on the right.

Q. That is just what I asked you and you say it is true as to each of the other states?

A. Yes, sir.

By Comm. Patterson:

Q. You mean by that Florida contributes 3.89 percent of the total business of the L&N in the states indicated here?

A. Yes, sir.

By Mr. Pettijohn:

May I ask a question?

Cross-examination.

By Mr. Pettijohn:

Q. The total figure 17,019,123 does not represent the revenue ton miles per mile of track for the L&N Railroad, does it?

A. That was stated here. I'd have to check it out and if there is anything different, and you say there is a difference, I'd have to verify it.

Q. Can't you merely divide 15,595,000,000 by 4,406 and see yourself it doesn't give you that?

A. At a glance, I'd say it didn't.

Q. What you have done is added traffic density for each [fol. 435] mile of road through each state you operate to get a total?

A. That's right.

Q. And what does it mean?

A. It means that the total as compared to the separation in each state would indicate one state is producing more tonnage than the other.

Q. You don't get the average density per mile of road of a system by adding the average density that obtained in each state, do you?

A. No.

Q. That is what the figure shows here, isn't it?

Exam. Mattingly: May I ask a question?

By Exam. Mattingly:

Q. Mr. McCormack, the L&N operates in Louisiana, doesn't it?

A. Yes.

Q. Have you shown Louisiana?

A. Not here, no, sir.

Q. Therefore, it does not purport to show revenue of the L&N system?

A. No, sir, just in those states.

By Mr. Pettijohn:

Q. Is 4,000 miles of track, or miles of track operated in the state shown on top of the exhibit?

A. That's right. In those states we have shown that. that is the mileage, 4,406.36.

Q. All right, then leave the system figure out of it and [fol. 436] say for those states. What is the revenue ton miles per mile of road, for the 4,406 miles shown under the total of this exhibit?

A. 17,010,123 miles.

Q. It doesn't show that for that at all, does it?

A. You said the revenue ton miles per mile of road?

Q. Yes.

A. That is opposite 14, 15 and 16. You've got 17,010,123 is your total.

Q. Well, now, how do you find the revenue ton miles per mile of road?

A. By dividing your mileage into your revenue tons.

Q. Revenue ton miles?

A. That's right.

Q. And that 17 million is not produced in that manner?

A. Apparently not.

Q. What you do, you compute it under different states under one method, but you don't follow the correct method in producing it under the total column?

A. That is what it appears here, but the result doesn't change any when you are speaking of percentage. The relativity of the tonnage handled is what we are trying to portray here, not the total tonnage.

Q. That is based upon the 17 million plus?

A. That's right.

[fol. 437] Q. And that is a meaningless figure? It is simply a sum of averages of each state shown on the exhibit?

A. It doesn't change the average. We have shown the tonnages. There is no question about those tonnages that

we show opposite 14, 15 and 16 in each of the states shown. And the tonnages bear out the percentages opposite line 17 and the whole purpose of the statement is to show tonnages, tonnage density of Florida is less than the other states indicated.

Q. Isn't that shown by comparison by revenue tons per mile of road on line 15 for each of the states?

A. That's right.

Q. And if you put the correct total under the total figure, that would give the correct figure on which to figure the relationship of Florida revenue per mile of road and for Florida and compare Florida with the total for all states?

A. We have got the correct total as far as tonnage is concerned there and that is merely a division of separate tonnage opposite 14, 15 and 16.

Q. They mean nothing, do they?

A. They do to us.

Q. What does it mean?

A. The percentages mean considerable.

Mr. Gwathmey: Mr. Commissioner, I submit counsel is [fol. 438] arguing with the witness.

Comm. Patterson: Well, the witness is arguing with counsel, also.

Mr. Gwathmey: The witness is explaining what he understood it to show clearly. Mr. Pettijohn is asking him something he doesn't want to show by the exhibit.

Comm. Patterson: I think we can let the exhibit stand for what it is worth.

By Mr. Petteway:

Q. Did you prepare this exhibit?

A. It was prepared under my supervision.

Q. What was the extent of your supervision?

A. The extent was the request for the preparation of it.

Mr. Petteway: Mr. Commissioner, I submit that is not supervision. That is requesting. I move it be omitted. He has demonstrated he can't explain it.

Mr. Gwathmey: It may not be clear to you——

Mr. Petteway: I move it be excluded from the record.

Mr. Wells: I join that motion.

Comm. Patterson: The motion is overruled. We will take the exhibit for what it is worth.

Mr. Petteway: That is all right, Mr. Commissioner.

Exam. Mattingly: Anything you want to say further, Mr. McCormack?

A. I believe not.

Comm. Patterson: You are excused.

[fol. 439] (Witness excused.)

H. W. Davis was sworn and testified as follows:

Direct examination.

By Mr. Gwathmey:

Q. Give your name and residence and connection with the L & N Railroad, please?

A. H. W. Davis, General Statistician, L & N Railroad, Louisville.

Q. Mr. Davis, the previous witness, Mr. McCormack offered an exhibit which was numbered 28 which was objected to upon the ground that the figures shown in the exhibit had been obtained from the accounting department of the L & N Railroad Company. Are you in a position to stand cross examination on these figures and answer the questions as to how the figures were obtained?

A. Yes, sir, I am.

Mr. Gwathmey: You may proceed, gentlemen, and cross examine.

Cross-examination.

By Mr. Hillyer:

Q. Mr. Davis, will you tell me how the operating ratio within the State of Florida was computed for 1945 and 1948?

A. Yes, sir, that was computed by dividing the operating revenues into the operating expenses.

Q. That is the mechanical method, but how did you [fol. 440] arrive at the revenues?

A. The revenues are, intrastate revenues are assigned strictly to the State of Florida. The interstate revenues are assigned on a mileage basis.

By Mr. Gwathmey:

Q. Assigned to Florida?

A. Assigned to Florida on a mileage basis.

By Mr. Hillyer:

Q. Is that separation made from certain records?

A. Yes, we audited waybills.

Q. On traffic going to Pensacola for water movement, you would classify that intrastate if it came from a point in Florida?

A. Yes, sir, I assume I would, yes, sir.

Q. How did you determine your operating expenses?

A. The operating expenses, the fixed facilities are charged directly to the State of Florida. The wages of train crews are based on the mileage of the run. The locomotive repairs and car repairs are distributed on basis of locomotive miles or car miles within the state compared to the total of the system.

Q. Were those expenses or transportation expenses all charged to the Florida traffic?

A. It is proportionate. In other words, if we have a run strictly within the State of Florida, that is entirely charged to Florida. But if we have a run that runs from [fol. 441] Alabama to Florida it is based on mileage percent.

Q. Those trains are both interstate and intrastate traffic?

A. Yes, sir.

Q. How do you make the separation?

A. On a mileage basis, miles of the run. That is the wages of the crew, that is what I am talking about.

Q. Is that based then on wages of crew entirely? Is that the underlying basis of apportionment?

A. Not altogether. That is just one item, wages of the crews. We have other expenses. We have fuel and water.

Q. Do you have many through trains as compared with locals or the opposite?

A. Within the state?